

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1018 of 2017 (O&M)

Date of Decision: 22.08.2017

Uttar Haryana Bijli Vitran Nigam Ltd.  
and another

... Appellants

Versus

Rohit Katyal

... Respondent

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Ms. Upasana Dhawan, Advocate,  
for the appellants.

**RAJIV NARAIN RAINA, J.(Oral)**

1. A delay of 129 days in presenting the appeal has been explained in the affidavit in support of the application under Section 5 of Limitation Act, 1963 in the following words:-

*“2. That the applicants-applicants are Nigam employees and in completing the process for preferring the present RSA delay has occurred and now after completing all the formalities the appeal is being filed before this Hon'ble Court without any further delay. It is well settled law that a litigant is not going to gain anything by filing an appeal belated stage. Unless some malafide and bad intention is attributed to them, mere filing an appeal at belated stage will not disentitle them to get their appeal decided on merits.*

*3. That the case of the appellants fully deserves a liberal approach as there is no malafide and reasons specified are bonafide.”*

2. This stock defence on the part of the agency of the State is legally unacceptable reason or a bona fide explanation for the belated approach which prevented the appellant from filing the appeal within

prescribed limitation. No sufficient cause for filing the appeal belatedly has been shown which is not commensurate with the criterion in Section 5 of the limitation Act and explanations of this kind has been severely criticized by the Supreme Court in Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr., 2012(2) S.C.T. 269 where their Lordships have observed as under:

*“13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”*

3. Countering this position, Ms. Upasana Dhawan tries to rely on the Supreme Court judgment in Executive Officer, Antiyur Town Panchayat v. G. Arumugam (D) by LR., (2015) 3 SCC 569. In that case the Madras High Court had dismissed an appeal with a delay of 1373 days but it was explained before the Supreme Court that the delay was deliberate on the part of the person who was working as Executive Engineer in the Panchayat at the relevant time and who was suspended from service on the allegations of corruption. Since the delay was on account of deliberate lapses on the part

of the Executive Officer, a Government Officer who failed to act promptly and defeated justice, only then that Court should take a lenient view and condone delay howsoever huge it may be and the matter decided on merits.

4. She also relies on the judgment in N.Balakrishan v. M.Krishnamurthy, (1998) 7 SCC 123. The Supreme Court in this case held that length of delay is no matter, when acceptability of the explanation is the only criteria to decide an application under Section 5 of the Limitation Act. In every case of delay, there can be some lapse on the part of the litigant. The Supreme Court observed by summing up the essence of limitation founded on public policy that the rule is for the general welfare that the period be put to litigation. The Court observed in paragraph 11 as follows:-

*“Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During the efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae ut sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”*

5.

In N.Balakrishan, the State and its agencies were not involved

and Court found sufficient explanation for the delay in a dispute arising out of the Consumer Disputes case where the adjudicatory platform can be different admitting of small consumer disputes which irritate consumers in their everyday life in the market.

6. I do not see how both these judgments help her to support the reasons given in the application explaining reasons for delay. In fact there is no reason whatsoever in the application for condoning the delay by way of precise movement of the file through the layers of consultation, with dates and events, and the final decision prompting the Nigam to file an appeal. Both these cases are distinguishable on facts and to the contents of the present application, reproduced above, supporting sufficient cause to condone delay. Casually drafted applications with scant facts cannot ignite the imagination of the Court to act mechanically and condone delay on a whim.

7. In view of the above, the application for condonation of delay in filing the appeal as well as main appeal is dismissed.

(RAJIV NARAIN RAINA)  
JUDGE

22.08.2017  
manju

*Whether speaking/reasoned* Yes

*Whether reportable* No