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CWP-14306-2005

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CM-2476-CWP-2017 in/and
RA-CW-84-2017 in
CWP-14306-2005
Date of decision: 26.05.2017

M/s Ganpati Enterprises Petitioner

versus

State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Amar Vivek, Addl. A.G, Haryana
for the applicant.

MAHESH GROVER, J. (ORAL)

No ground for review has been made out as the applicant virtually wants re-hearing of the matter. That apart, the review application is accompanied by delay of 229 days which is largely unexplained. We may extract the reasons explaining the delay which are set out in the application under Section 5 of the Limitation Act: -

“3. That on 16.09.2016, the Ld. AG Haryana, returned the file with the opinion that it was a fit case for filing of the Special Leave Petition in the Hon'ble Apex Court along with a review petition in this Hon'ble Court.

4. That after the receipt of the opinion from the AG office, the file was dealt in the various levels in the office and the competent authority was of the

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opinion that the Ld. Advocate General should examine possibility of filing a Review Petition instead of filing a Special Leave Petition as filing a review petition and SLP is unprecedented and may lead to a piquant situation.

5. That thereafter the file was sent to the AG office for further opinion in the matter on 21.09.2016, as the opinions were varied and at cross purposes and finally on 28.09.2016, fresh legal opinion was given by the Ld. AG Haryana, approving the filing of the present Review Petition. After the receipt of opinion from the Ld. AG., the file was received back in the Administrative Department on 29.09.2016 and steps for obtaining sanction for filing the Review Petition were initiated in the present case.

6. That soon after the receipt of the sanction for filing the present Review Petition was received, the Review Petition was drafted and sent to the office of the Ld. AG Haryana for further necessary action on 18.11.2016. The Ld. AG Haryana, approved the draft of the review Petition and returned the file to the Administrative Department for the filing of the review Petition. Thereafter once again the file was processed at different levels and finally the file was sent to the office of the Ld. AG Haryana, again as there was a necessity of drafting an application for condonation of delay. After discussion in detail; it transpired that the Review Petition ought to be filed in the first instance. As such, the file has been returned to the administrative department on 24th January 2017, along with the application for condonation of delay

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duly vetted. That the delay in the filing of the present Petition is only procedural and the same is genuine due to administrative reasons alone and not due to negligence in any manner whatsoever. The file of the present case has been dealt at various levels and finally some part of the delay took place in the office of the Ld. AG Haryana, wherein the file had been sent to render opinion and the matter of filing the present Review Petition. As such, for the said bonafide reasons as above, a delay of 229 days in the filing of the present Review Petition has been caused, which deserves to be condoned in the interest of justice and equity.”

Upon consideration of the explanation as extracted above, we are firmly of the opinion that such a delay cannot be condoned. Indeed some leeway can be afforded to the State for the procedural processes that precede a final decision of filing an appeal, but if the facts reveal a rather clumsy and a lethargic handling then the Courts should be cautious enough not to be a privy to such apathy and treat the State any differently than it does a common litigant. Rather it is the State as a major litigant that has a greater responsibility to adhere to procedural laws and the laws of limitation, when being fairly well equipped with legal personnel, trained for such processes. It is an undeserving explanation, that initially the case was found fit for filing Special Leave Petition but then it was dealt with at various levels in AG office but then the competent authority was of the opinion that the matter be examined for possibility of filing the Review Petition. This to our mind is an ambiguous expression that file was dealt with 'at various levels

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with the competent authority forming an opinion of filing a Review Petition' without particulars providing an insight to the Court about the 'levels' of dealing and the time consumed by them. The journey of the file from date of decision to November 18, 2016, is sans explanation as to why it languished at the stage of processing. Rather it is shocking to note that after November 18, 2016 also the applicant explains **“thereafter once again the file was processed at different levels and finally the file was sent to the office of the Ld. AG, Haryana, again”**.

The Hon'ble Supreme Court in *Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr.* **2012(2)S.C.T.269** has 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 delay is an exception and should not be used as an anticipated benefit 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

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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.”

Consequently, we dismiss the application for review both on
merits as also on the delay.

(MAHESH GROVER)
JUDGE

May 26, 2017
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(LISA GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No