

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

**CM-1672-CI-2016 and  
RFA No.623 of 2016  
Date of decision:10.01.2018**

Punjab Small Industries & Export Corporation Ltd.

....Appellant

Versus

Wazir Singh (deceased) through LRs & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Mr.Abhilaksh Grover, Advocate, for the applicant/appellant.

Mr.Dinesh Mahajan, Advocate, for respondents No.1 & 2.

Ms.Akshita Chauhan, AAG, Punjab, for respondents No.3 & 4.

**G.S. SANDHAWALIA, J. (Oral)**

The present application has been filed for condoning the delay of 1278 days in filing the present appeal against the order dated 13.03.2012, passed by the Addl.District Judge, Gurdasur, whereby he has enhanced the compensation to Rs.1600/- per marla (Rs.2,88,000/- per acre), situated in Village Ranipur Tehsil Pathankot, District Gurdaspur, which was acquired for the Industrial Growth Scheme under the urgency clause, vide award dated 30.05.1994.

In the application filed by the appellant-Corporation, it has been averred that on an earlier occasion, reference was decided on 23.10.2008 and the matter had been remanded by this Court. Counsel for the Corporation has not informed about the decision and it was only in December, 2012, that the Corporation came to know upon getting notice of the execution petition filed by the land-owners and thereafter, the counsel was contacted on 11.12.2012. Copy of the order was received by the Planning Wing on 09.01.2013 and decision was taken to impugn the

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decision dated 13.03.2012 by filing an appeal. The matter was sent to the Legal Cell on 29.10.2013 and discussed at various levels and vide communication dated 24.02.2014, the Managing Director ordered for taking the opinion from the office of the Advocate General through the Land Acquisition Collector. The said opinion was received on 22.04.2014 that it was for the Corporation to take a decision for filing an appeal at its own level and the matter was put up before the Managing Director and on 06.05.2014. The case was entrusted to the counsel on 07.05.2014, who further asked for reasons for the delay, vide letter dated 15.05.2014. The reasons were supplied on 19.06.2014 and information was sought from the counsel on 14.07.2014. The copy of the award was sought for on 04.08.2014 by the counsel, which was sought to be obtained from the LAC but till date, same has not been received. Thus, the delay was sought to be condoned by filing the present application.

The present application has been contested by the counsel for the land-owners on the ground that it has not been properly explained and only general averments have been made and therefore, no sufficient ground is made out for condoning the delay. It was the carelessness of the Corporation not to contact the counsel for a long time and therefore, the matter had been dealt with in a very casual manner.

A perusal of the application, as noticed above, would show that that even after receipt of the order dated 13.03.2012 on 11.12.2012, Corporation took 3 years to file the appeal, since it was admittedly filed on 11.12.2015. The reasoning given is not justified as the matter was kept pending at various levels, including asking for unnecessary opinions

and resultantly, the explanation which has been given in the application, is not justified.

Counsel for the respondents is well justified in placing reliance upon the judgment of the Apex Court in case of **Office of the Chief Post Master General & others Vs. Living Media India Ltd. & another 2012 (2) SCT 269**, wherein the Apex Court has delineated the law on the said issue and held that in the absence of any proper explanation offered by the Government/Department and in the absence of any *bona fide* effort, the explanation is not likely to be accepted. It has further been held that the Department cannot take advantage of the impersonal machinery and inherited bureaucratic methodology and the law of limitation binds everybody including the Government. Relevant portion of the judgment read as under:

“12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited

bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

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 bonafide 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 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.”

Accordingly, this Court is of the opinion that no sufficient cause has been made out for condoning the delay in filing the present appeal. Consequently, the application for condonation of delay as well as the main appeal are, hereby, dismissed.

10.01.2018  
Sailesh

(G.S. SANDHAWALIA)  
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No