

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

LPA No.1157 of 2017 (O&M)

Date of Decision : 27.11.2018

Punjab Agricultural University and another

....Appellants

Versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA

Present: Ms.Amanpreet Kaur, Advocate
for the appellants.

MAHESH GROVER, J. (Oral)

This appeal has been preferred against the judgment of the learned Single Judge accompanied by an application under Section 5 of the Limitation Act as the appeal is barred by a delay of 120 days.

A perusal of the application does not reveal any justifiable ground for condoning the delay. The impugned judgment is dated 20.12.2016 and a reading of paras 2 and 3 conjunctively does not give any clear reason. In para 2 it has been stated that after passing of the impugned judgment the appellant University got the legal advice and sanction from the authorities to file the present appeal. The judgment was prepared on 20.03.2017 and copy received on 21.03.2017. There is no date assigned to the application made for obtaining the certified copy of the judgment. The copy was prepared and supplied to the appellants within one day itself as the assertion reveals. Then it is stated in this very paragraph that the University

sought advice from the counsel to file the appeal which caused the delay of 120 days in filing the appeal.

To our minds, such an explanation is not worth acceptance. Even otherwise, if we see the impugned judgment, the claim of the appellants is unsustainable. The appellants had earlier been exempted from the applicability of the ESI Act and in December 2010, just about five days before the expiry of the previous exemption which was existing from 1.1.2011 to 31.12.2011, an application was made, whereas it ought to have been made three months before the date of expiry of the previous exemption. Accordingly, the exemption granted for 30.6.2011 to 31.12.2011 would be in accordance with the amended provisions of the ESI Act. Since the delay was at the end of the appellants themselves, the plea for grant of retrospective exemption was totally unjust, particularly when the Act does not permit so.

No ground to interfere.

Dismissed.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

27.11.2018
dss

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