

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

**LPA No.1377 of 2017 (O&M)**

**Date of Decision : 24.09.2018**

Commissioner Hisar Division, Hisar  
and others

....Appellants

Versus

Zile Singh

....Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Kirti Singh, Deputy Advocate General, Haryana.

...

**MAHESH GROVER, J.** (Oral)

CM-3799-LPA-2018 is allowed. Accompanying affidavit  
is taken on record.

This appeal is directed against the judgment of the  
learned Single Judge dated 30.03.2016 but filed after an inordinate  
delay of 408 days. The detailed reasons for delay have been given in  
paras 1 to 6 of the affidavit dated 07.08.2018 filed by Shri Ram Phal  
Kataria, District Revenue Officer-cum-Collector, Jind in support of  
the application under Section 5 of the Limitation Act, which we  
consider appropriate to extract herebelow :-

“1. That the CWP No.23687 was decided by the Ld.Single  
Judge on 30.03.2016, however, the copy of order  
dated 30.03.2016 was received in this office on  
19.05.2016. Thereafter the matter was referred to  
the office of Advocate General, Haryana, who opined  
that the case is not fit for filing LPA and Legal

Remembrancer and Administrative Secretary to Govt. of Haryana also concurred with the opinion and intimate this office vide letter No.30283/CO1247/H/2016 dated 27.05.2016 that this case is not fit for filing further LPA. The letter dated 27.05.2016 is attached as Annexure A/1.

2. That the Commissioner, Hisar Division, Hisar vide letter no.66/VRK/CWP/2014/3729 dated 13.06.2016 directed the deponent to file the LPA against the judgment dated 30.03.2016 passed in CWP No.23687 of 2014. Thereafter the deponent vide letter no.1695/HRC dated 28.06.2017 directed the Sub-Registrar, Jind to file the LPA before the Hon'ble High Court. Copy of the same is attached as Annexure A/2.
3. That thereafter the Additional Chief Secretary and Financial Commissioner to Govt.Haryana, Revenue and Disaster Management Department, Chandigarh vide letter no.4128-STR-6-2016/7602 dated 03.08.2016 directed the Deputy Commissioner, Jind to file the LPA. This letter is attached as Annexure A/3 for the kind perusal of this Hon'ble High Court. The Sub-Registrar, Jind vide letter no.81/R.C. Dated 29.08.2016 submitted the draft of LPA before the office of Advocate General, Haryana for vetting and the same was vetted on 30.08.2016 by the office of Advocate General, Haryana. The letter no.81/R.C. dated 29.08.2016 is attached as Annexure A/4. The Sub-Registrar, Jind vide letter no.89/R.C. dated

02.09.2016 and letter no.241/RC dated 04.10.2016 contacted to the office of Advocate General, Haryana for submission of Fair Draft of LPA after vetting but the officials of office of Advocate General Haryana refused to accept the same on the pretext of non attachment of Govt. approval to the office of Advocate General, Haryana for filing the LPA. The letter dated 02.09.2016 and 04.10.2016 are attached as Annexure A/5 and A/6 respectively.

4. That thereafter departmental correspondence went on and ultimately the Legal Remembrancer and Administrative Secretary to Govt. of Haryana vide letter dated 27.04.2017 requested the office of Advocate General, Haryana to file LPA in the Hon'ble High Court. The letter dated 27.04.2017 may be perused at Annexure A/7.
5. That the Sub-Registrar, Jind after compliance of directions issued by office of Advocate General, Haryana submitted the LPA before them on 12.05.2017.
6. That due to this reason on the LPA could not be filed in this Hon'ble Court within limitation period as prescribed under the Act.”

From the perusal of the above, we find that the learned Single Judge decided the lis on 30.03.2016 and certified copy of the impugned order was received by the department on 19.05.2016. Then the matter was referred to the office of Advocate General, Haryana

which opined that the case is not fit for filing appeal. The said opinion was concurred by the Legal Remembrancer and Administrative Secretary to Govt. of Haryana and the department was intimated in this regard on 27.05.2016. Thereafter, on 13.06.2016 the Commissioner, Hisar Division, Hisar directed the Collector to file the appeal against the judgment rendered by the learned Single Judge and ultimately the Collector directed the Sub-Registrar, Jind to file the appeal. After that the Additional Chief Secretary and Financial Commissioner to Govt. Haryana, Revenue and Disaster Management Department, Chandigarh also directed the Deputy Commissioner, Jind to file an appeal in the matter. The Sub-Registrar, Jind then submitted the draft of LPA before the office of Advocate General, Haryana for vetting on 29.08.2016. The said draft was vetted on 30.08.2016 by the office of Advocate General. The Sub-Registrar, Jind then contacted the office of Advocate General for submission of fair draft of LPA after vetting but the office of Advocate General, Haryana refused to accept the same because of the non-attachment of approval of the Govt. to their office for filing the appeal. Thereafter the Legal Remembrancer and Administrative Secretary to Govt. of Haryana also requested the office of Advocate General, Haryana to file appeal on 27.04.2017. Consequently, the Sub-Registrar, Jind in compliance of the directions issued by the office of Advocate General, Haryana submitted the appeal before them on 12.05.2017.

It is thus abundantly clear that there is no seriousness attached to the process and knowing fully well that the limitation for

filing intra-court appeal is merely 30 days, the concerned department showed no urgency and took more than one year in filing the appeal.

We cannot treat the Government Departments as novice and stranger to the concepts of law as they are well equipped with Law Officers as also the office of Advocate General. We also cannot treat the State or its departments any differently than an ordinary litigant. Rather, an ordinary litigant has to be given some indulgence in terms of relaxation but the State with numerous human resources and legal acumen at their command cannot escape the consequences of this brazen and laxity to the process.

*In Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr. 2012(2)S.C.T.269* the Lordships of Hon'ble Supreme Court 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 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.”

Keeping in view the aforesaid, we are of the opinion that the explanation for delay furnished by the appellants is not worth acceptance.

The appeal is dismissed on the ground of delay.

However, we left the question of merit open to be determined in appropriate proceedings.

(MAHESH GROVER)  
JUDGE

24.09.2018  
dss

(MAHABIR SINGH SINDHU)  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |