

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

LPA No. 2316 of 2017 (O&M)

Date of Decision: 17.07.2018

State of Haryana and others

.....Appellants

versus

Balwan Singh son of Molu Ram

.....Respondent

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Lokesh Sinhal, Additional Advocate General, Haryana,
for the appellants.

Mr. Dharamveer, Advocate, for respondent No.1.

KRISHNA MURARI, CHIEF JUSTICE

This appeal under clause X of the Letters Patent has been filed by the State of Haryana challenging the judgment and order dated 07.05.2015 passed by the learned Single Judge allowing the writ petition in the same terms as in Civil Writ Petition No. 10017 of 2011.

It is to be taken note of that 24 writ petitions were disposed of by this common judgment against which number of Letters Patent appeals were filed by the State of Haryana. Some of them have been dismissed on-merits while some of them being barred by limitation. The appeal in question is reported to be barred by delay and latches of 898 days. Initially a very cursory explanation was submitted, considering which the Division Bench of this Court on 15.02.2018 noticed that in majority of the appeals filed by the State of Haryana, wherever some merit is there, the appeals are filed belatedly and surprisingly where the appeals are meritless they are filed

within time. Certain observations were made in the said order with respect to the motive for filing the meritless appeals within time and others belatedly. It was also observed that vague statements made in the application under section 5 of the limitation Act are not sufficient to condone the huge delay whereupon learned counsel appearing for the appellants sought time to file a better affidavit.

An application along with affidavit in compliance of the order dated 15.02.2018 has been filed today which is taken on record. Even after going through the contents of the said affidavit we are not satisfied that they constitute any good ground to condone the delay. Merely because one officer has been writing letters to the other officer, in our considered opinion cannot constitute a ground to condone this huge delay. It is also stated in the affidavit that erring officials have been dealt with departmentally under rule 8 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987. They have been served with charge-sheet and further action is being taken. This itself will also not constitute a ground to condone this inordinate delay. Moreover, a perusal of the so called better affidavit clearly demonstrates that the officers were acting in a very irresponsible manner without there being any intention on their part to come up in appeal. This is a classic case where the officers were throwing the ball from their court to other without taking any concrete steps.

Learned counsel for the appellant submits that the delay is neither intentional nor *malafide*. Be that as it may it may not be intentional or *malafide* but it is certainly laced with irresponsibility. Irresponsible litigant even if it is the State is not entitled to be extended the benefit of section 5 of the limitation Act. It is only in those cases where delay is caused

on the account of the circumstances beyond the control of the litigant, Section 5 can be invoked. Having gone through the entire facts and circumstances, we are not satisfied that there exists any plausible explanation submitted by the State to condone the delay of 898 days in filing the appeal.

It is also to be taken note of that the judgment passed by the learned Single Judge also stands affirmed on-merits as well by dismissal of LPA No. 399 of 2018 by the Division Bench on 07.05.2018.

In view of the above facts and circumstances, the application under section 5 of the Limitation Act stands dismissed and as a consequence the appeal also stands dismissed being barred by limitation.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

17.07.2018

ravinder

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