

LPA no.2144 of 2017 (O&M) 1

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

LPA no.2144 of 2017 (O&M)

Date of Decision : 30.01.2019

State of Punjab and others

....Appellant(s)

Versus

M/s Rajshree Steel Pvt. Ltd.

...Respondent(s)

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

**Present : Mr.Suveer Sheokand, Addl. AG, Punjab
for appellants.**

Mr. Rajiv Kataria, Advocate for caveator

MAHESH GROVER, J.(ORAL)

The present appeal has been filed after an inordinate delay of 536 days. Initially the appeal was filed with an application under Section 5 of the Limitation Act but it did not disclose any justifiable reason for the delay. An affidavit has now been filed (by way of CM No.3757-LPA-2018) which in no way enhances the claim of the appellants. The impugned order was passed on 22.4.2016 and the Deputy Commissioner opined it to be a fit case for filing appeal on 20.7.2016 implying thereby that limitation to file the appeal had already expired. This letter was then dispatched to the office of the Sub Registrar who prepared a draft of the appeal and remitted the same for necessary sanction vide his communication dated 20.7.2016 which was granted on 22.7.2016 and received in the office of the Sub Registrar Khanna on 10.8.2016.

On its receipt it was submitted to the learned Advocate

General's office on 30.8.2016 whereafter Sh. Gurmeet Singh, Tehsildar-cum-Sub Registrar superannuated on 31.8.2016 and the Clerk who was dealing with the case neither took any steps for filing the LPA nor brought it to the notice of the Tehsildar. The said Clerk was transferred on 4.7.2017 and the new Registry Clerk who replaced him brought the matter to the notice of the Sub Registrar who took necessary steps and applied for obtaining certified copy of the order dated 22.4.2016 and after receiving it presented the LPA in the office of Advocate General which resulted in the filing of appeal after delay of 536 days.

After hearing learned counsel for the appellants and on perusal of the contents of the affidavit, we are of the opinion that such an inordinate delay on account of the aforesaid reasons can hardly be termed to be justifiable to condone it.

We have held in numerous pronouncements that delay of such a magnitude by the State cannot be condoned and if the Courts are to lean favourably it ought to do so in favour of the litigants who may not be equipped with such resources as the State.

We cannot shut our eyes to such callousness and treat the State or its functionaries differently than a common litigant while dealing with matters of limitation to grant indulgence by overlooking such procedural delays and we would not be unjustified to expect some alertness at the hands of a litigant who wishes to approach this Court in no matter what proceedings.

We are also constrained to observe that there is absolutely no justification manifesting itself from the contents of the application in seeking repeated legal opinions.

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 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 view that the explanation for delay offered by the appellants is not worth acceptance.

Appeal dismissed on the ground of delay.

(Mahesh Grover)
Judge

30.01.2019
rekha

(Lalit Batra)
Judge

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