

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

Letters Patent Appeal No. 659 of 2018 (O&M)

Date of Decision: 27.02.2019

State of Punjab and others

.....Appellants

versus

Daljit Singh and others

.....Respondents

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

Present : Ms. Monica Chhibber Sharma, Senior Deputy Advocate
 General, Punjab for the appellants.
 Ms. Meenu, Advocate with
 Mr. APS Bhullar, Advocate, for the respondents.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 26.05.2017 corrected vide order dated 08.09.2017. Office has reported delay and latches of 309 days in filing the appeal. An application under section 5 of the Limitation Act duly supported by an affidavit has been filed seeking condonation of delay.

2. The explanation submitted for delay is that the Advocate General, Punjab vide letter dated 02.08.2017 opined it to be a fit case for filing the Letters Patent Appeal and thereafter the matter was referred to the Law Officer for preparation of the appeal but since the entire record was not submitted by the concerned branch, the file was returned back with the request to send the complete record. It is further stated that since the record was very old, the concerned branch made their best efforts to locate the relevant record in the record room but the same could not be found and thereafter on 03.11.2017 the matter was again referred to the Law Officer to prepare the Letters Patent Appeal. It is stated that the Law Officer again returned the file on 10.11.2017 to the concerned branch with the comment to

attach the relevant record. After waiting for about a month, the file was again moved to the Law Officer on 14.12.2017 with the opinion that the old record could not be found. The Law Officer is stated to have again returned the file on the very next day i.e. 15.12.2017 that the appeal can not be prepared without proper record and if the record is not found then the Advocate General may be approached to get the photocopy. It is only thereafter the concerned branch obtained the photocopy of the official record from the office of the Advocate General and forwarded the same to the Law Officer to prepare the Letters Patent Appeal. The Letters Patent Appeal is stated to have been prepared on 21.12.2017 and thereafter the file was moved for signatures on 03.01.2018. After some movement of the file from one table to another, the Advocate General is finally stated to have vetted the draft on 24.04.2018 and sent it back to the appellants who after removing the objections and carrying out necessary corrections again forwarded it to the office of Advocate General for filing.

3. A perusal of the averments made in the application go to show that there is actually no explanation which may constitute sufficient cause to condone the inordinate delay of 309 days in filing the appeal. What is beyond our comprehension is what old record was being searched for when everything must have been available in the record of the writ petition. Even the details of that old record which was being searched for filing the Letters Patent Appeal has not been specified. The fact that the idea of obtaining the photocopies of the record from the office of the Advocate General struck the authorities responsible for filing the Letters Patent Appeal after about four months and another five months were consumed thereafter in finalizing the draft Letters Patent Appeal does not appeal to reason and demonstrates the callous attitude of the officers of the State.

4. A bare reading of the averments made in the delay condonation application on one hand does not inspire any confidence and on the other hand gives an impression that it is an afterthought and the averments seem to have been manufactured for the purposes of condonation of delay which occurred only on account of the lackluster attitude of the officers of the appellants responsible for preparation and filing of the appeal. A litigant, even if it is State, if moves at his own leisure and files delayed proceedings at its convenience, is not entitled to condonation of delay and latches.

5. On account of inaction on the part of one of the litigant by the lapse of time, a valuable right accrues in favour of the other party which cannot be allowed to be taken away lightly without there being any plausible explanation spelling out reasons which constitute sufficient cause to condone the delay.

6. Having heard learned counsel for the appellant and having gone through the averments made in the application seeking condonation of delay, we are not persuaded to accept the explanation offered. Since in our considered opinion the same will not constitute a sufficient cause to condone the delay, the application for condonation of delay stands dismissed.

As a consequence, the appeal stands dismissed as barred by limitation.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

27.02.2019
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Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No