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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 50/2019

GOVERNMENT OF NCT OF DELHI

..... Appellant

Through: Ms. Ruchika Rathi, Ms. Sanya Dua &
Ms. Subhalaxmi Sen, Advs.

versus

TARA CHAND AGGARWAL & ANR

..... Respondents

Through: Ms. Mrinalini Sen, Standing Counsel
for DDA

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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25.02.2019

CM APPL. 3529/2019 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM APPL.3527/2019 (for condonation of delay)

This is an application filed by the appellant seeking condonation of 439 days' delay in filing the present appeal.

For the reasons stated in the application, the delay of 439 days in filing the present appeal is condoned.

Application stands disposed of.

LPA 50/2019 & CM APPL.3528/2019 (Stay)

1. Seeking exception to an order passed by the learned writ court on 10.10.2017 in W.P.(C) 8900/2017, this appeal has been filed under Clause 10 of the Letters Patent by the Government of NCT of Delhi.

2. Respondents herein filed the writ petition being aggrieved by a communication dated 04.06.2015 whereby a request for allotment of alternate plot was declined on the ground of delay. There seems to be a delay of 11 days in filing the application seeking allotment of alternate plot. The learned writ court took note of a judgment of this Court in the case of *Simla Devi v. Secretary & Ors.*, 140 (2007) DLT 474 wherein under similar circumstances delay of four months in filing the application seeking allotment of plot was condoned. Reliance was also placed on another judgment of a Division Bench in the case of *Government of NCT of Delhi v. Poonam Gupta*, 226 (2016) DLT 269 wherein condoning the delay the Division Bench directed for considering the application on merit.

3. Today, we are informed that following the law laid down in the case of *Simla Devi* (supra), various Benches of this Court have issued directions for condoning the delay even to the extent of about one year and directed for deciding such applications on merit. The judgments on the issue are LPA Nos.138/2017 and 139/2017 titled *GNCTD v. Sanjay & Ors.* wherein it was held that a liberal attitude should be adopted in these cases and merely on the ground of delay, applications should not be rejected. Thereafter, on 22.03.2017 another Co-ordinate Bench of this Court in the case of *Govt. of NCT of Delhi v. Vijay Singh & Ors.*, LPA 188/2017 had condoned the delay of 191 days in filing the application and following the judgment in the case of *Sanjay & Ors.* (supra) directed for deciding the application on merit.

4. Keeping in view the consistent view of this Court in identical matters, we see no reason to make any indulgence into the matter when following various judgments of this Court, the learned Single Judge has only directed for deciding the application on merit by condoning the delay of 11 days in

filing of the application.

5. When the matter was being heard, we had informed the counsel representing the Government of NCT of Delhi that during the last three weeks, more than ten LPAs filed by the Government of NCT of Delhi on identical issues have been rejected by this Court wherein delay of about one year in one case and between three months to 22 days in various other cases were condoned and enquired when consistently LPAs on identical points were being rejected, why this appeal has been filed. The counsel had no answer to the same. The Government is expected to implement the judgment of this Court uniformly to identically situated persons. We are of the considered view that once it is seen that consistently LPAs filed have been rejected and delays of more than hundred days have been condoned, the Delhi Government should not have filed this appeal wherein there was only a delay of 11 days in filing the application for alternate allotment. Taking note of the manner in which the appeal has been filed, we have no hesitation in imposing cost of Rs.25,000/- to be deposited with the Delhi High Court Legal Services Committee, to be used for legal aid for the needy.
6. Accordingly, finding no ground to interfere, the appeal stands dismissed. The pending application also stands disposed of.

CHIEF JUSTICE, J

V. KAMESWAR RAO, J

FEBRUARY 25, 2019/ns