

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No. 2166 of 2017 (O&M)
Date of Decision: 21.01.2020

***THE PRINCIPAL CHIEF CONSERVATOR FOREST, PUNJAB,
SECTOR-17, CHANDIGARH AND ANOTHER***

..... Appellants

V/s.

GURMEET SINGH AND OTHERS

..... Respondents

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA.

Present: Mr. P.S. Bajwa, Additional Advocate General, Punjab.
for the applicants-appellants.

Mr. P.S. Kanwar, Advocate,
for the non-applicant/Respondent No. 1.

RAKESH KUMAR JAIN, J. (Oral)

CM-4749-LPA-2017

This application is filed under Section 5 of the Limitation Act, 1963 (for short “the Act”) for condonation of delay of 143 days in filing of the appeal.

The impugned order was passed on 18.05.2017. Certified copy was applied on 25.05.2017 which was prepared on 12.07.2017 and delivered on the same day. It is averred in the application that the opinion of the Advocate General, Punjab was received on 22.08.2017 and sanction to file the appeal was granted on 11.09.2017. The appeal was prepared on 09.11.2017 and the same was filed on 10.11.2017 and in this process, delay of 143 days has been caused due to official procedure.

On the other hand, counsel appearing on behalf of the non-applicant/respondent No. 1 has submitted that the limitation to file an intra Court appeal is 30 days and even if 30 days is to be counted from 12.07.2017 when the certified copy of the impugned order was delivered, the opinion of the Advocate General's Office was obtained on 22.08.2017, sanction was obtained on 11.09.2017 and the appeal was filed even after two months i.e. 10.11.2017 without assigning any explanation.

We have heard counsel for the parties and perused the record with their able assistance.

Section 5 of the Act provides for extension of limitation in filing of an appeal or an application if sufficient cause is shown to the Court. In the present case, the impugned order was passed on 18.05.2017, certified copy of the impugned order was applied on 25.05.2017 which was prepared and delivered on 12.07.2017 but there is no explanation given for delay in obtaining the opinion of the Advocate General's office which was given on 22.08.2017 and again there is no explanation given for delay in grant of sanction to file the appeal which was given on 11.09.2017 and also for not filing the appeal till 10.11.2017. Thus, in our considered opinion, the applicant-appellant cannot take shelter of the procedural delay and has to explain the delay for not filing the appeal for two months even after receiving the sanction though limitation is only one month.

Thus, in our considered opinion, the applicant-appellant has failed to assign sufficient cause which is a *sine qua non* for extension of time by condoning the delay. The application is, thus, without merit and the same is hereby dismissed as such.

LPA-2166-2017

Since, the application for condonation of delay has been dismissed hereinabove, therefore, as a necessary corollary, the appeal is also dismissed.

[RAKESH KUMAR JAIN]
JUDGE

January 21, 2020
Ess Kay

[ASHOK KUMAR VERMA]
JUDGE

Whether speaking / reasoned :	Yes	/	No
Whether Reportable :	Yes	/	No