

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 12 of 2020**

1. The State Of Chhattisgarh Through The Collector, Raipur, For Land Acquisition Officer And Sub Divisional Officer (Rev.) Raipur, Chhattisgarh
2. The Director, Chhattisgarh Council Of Science And Technology, Raipur, Tehsil And District Raipur, Chhattisgarh

---- Appellants**Versus**

- Indraprasth Ecopark Private Limited, Through The Director, Narendra Kumar Parakh, Aged About 52 Years, S/o Late Panchilal Parakh, Managing Director, Indraprasth Ecopark Private Limited R/o Parakh Mansion, Gudhiyari, Tahsil And District Raipur, Chhattisgarh

---- Respondent

For Appellant / State : Shri Ravish Verma, Govt. Adv.

For Respondent : Shri T.K.Jha, Advocate

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order On Board****30/06/2021**

Heard on application for condonation of delay in filing appeal.

This appeal arises out of award dated 29/11/2018 passed by the 4th Additional District Judge, Raipur regarding dispute with regard to quantum of compensation.

2. The respondent, aggrieved by the quantum of compensation, made an application leading to reference under Section 18 of the Land Acquisition Act, 1894 which culminated in passing of impugned award.

This appeal, however, has been filed after a long delay of 308 days.

3. Learned counsel for the appellant / State would submit that delay in filing appeal is not deliberate but only bonafide because of various internal communications regarding permission / appreciation, consuming time resulting in

delay. Learned State counsel would submit that Hon'ble Supreme Court has dealt with 247 days delay in filing SLP in the case of **State of Odisha and ors. v. Kamalini Khilar and anr., 2021 SCC Online SC 346.**

4. On the other hand, learned counsel for the respondent submits that the reasons assigned in the application seeking condonation of delay does not give any explanation so far except making vague and bald statement of general nature. Learned counsel for the respondent has placed reliance on the decision of the Supreme Court in the case of **State of Madhya Pradesh & ors. v. Bherulal, 2020 SCC Online SC 849** and another decision in the case of **Government of Maharashtra (Water Resources Department) v. M/s. Borse Brothers Engineers and Contractors Pvt. Ltd., 2021 SCC Online SC 233.**

5. We have heard learned counsel for the parties.

6. This appeal is barred by 308 days. In the application for condonation of delay, all that has been stated is as below -

“2. That, after passing of the aforesaid impugned award when the same was received by the department and the matter was deliberated & requisite opinion and sanction was sought from the concerned departmental authorities. After receipt of the approval for filing the present appeal, the same was forwarded to the office of Advocate General & is being filed however meanwhile the period of limitation for filing appeal got expired.

3. That, the delay in filing of the appeal occurred due to the departmental formalities and of requisite approvals from Government authorities, which is not deliberate but bonafide.

4. That, however, meanwhile there occurred a delay of 308 days because of the various internal communications regarding permission and approval, which is not deliberate, bonafide and liable to be condoned.

That, an affidavit in support of this application is being filed.”

The aforesaid details in the affidavit are bereft of any specific details and very vague statement has been made regarding receipt of file in the department

deliberation, opinion, sanction, appreciation, departmental formalities etc.

Such a practice of filing appeal with inordinate delay have been seriously deprecated by the Supreme Court in its recent decision in the case of **State of Madhya Pradesh & ors. v. Bherulal** (supra) and **Government of Maharashtra (Water Resources Department) v. M/s. Borse Brothers Engineers and Contractors Pvt. Ltd.** (supra).

7. In the case of **State of Madhya Pradesh & ors. v. Bherulal** (supra), it was found that the appeal filed by the State was with delay of 663 days. The cause shown for inordinate delay in that case was due to unavailability of documents and the process of arranging documents and also a reference to bureaucratic process works. In the aforesaid factual context, Their Lordships of the Supreme Court, referring to its earlier decision, observed as below -

3. No doubt, some leeway is given for the Government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government (Collector, Land Acquisition, Anantnag & Anr vs. Mst. Katiji & Ors. (1987) 2 SCC 107). This position is more than elucidated by the judgment of this Court in Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. (2012) 3 SCC 563 where the Court observed as under:

“12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

Though we are conscious of the fact that in a matter of condonation

of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

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 bonafide 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.” Eight years hence the judgment is still unheeded!

8. In another decision, in the case of **Government of Maharashtra (Water Resources Department) v. M/s. Borse Brothers Engineers and Contractors Pvt. Ltd.** (Supra) also, in the factual context of long delay of 75 days, the explanation was found to be short of any sufficient cause. The explanation in the aforesaid case was noted in para 65 of the said judgment as below -

“65. That apart, on the facts of this appeal, there is a long delay of 75 days beyond the period of 60 days provided by the Commercial Courts Act. Despite the fact that a certified copy of the District Court’s judgment was obtained by the respondent on 27.04.2019, the appeal was filed only on 09.09.2019, the explanation for delay being:

“2. That, the certified copy of the order dated 01/04/2013 was received by the appellant on 27/04/2019. Thereafter the matter was placed before the CGM purchase MPPKVCL for the compliance of the order. The same was then sent to the law officer, MPPKVCL for opinion.

3. That after taking opinion for appeal, and approval of the concerned authorities, the officer-in-charge was appointed vide order dated 23/07/2019.

4. That, thereafter due to bulky records of the case and for procurement of the necessary documents some delay has been caused however, the appeal has been prepared and filed to pursuant to the same and further delay.

5. That due to the aforesaid procedural approval and since the appellant is a public entity formed under the Energy department of the State Government, the delay caused in filing the appeal is bonafide and which deserve[s] to be condoned.”

But it was not found acceptable, as held in para 66 as below :

“66. This explanation falls woefully short of making out any sufficient cause. This appeal is therefore allowed and the condonation of delay is set aside on this score also.”

9. It would, thus, be seen that long delay of 308 days in filing appeal is sought to be explained on lame excuses and more on bureaucratic lethargy and indolence which should not be condoned more so taking into consideration the nature of litigation before us where the State seeks to challenge enhancement of compensation.

10. In view of above consideration, the application for condonation of delay is dismissed being without merit. Consequently, the appeal is also dismissed as barred by limitation.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge