

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(115)

CR-787-2021

Date of Decision : July 16, 2021

National Highway Authority of India

.. Petitioner

Versus

Jagat Singh and others

.. Respondents

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rishi Kaushal, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI J. (ORAL)

Present civil revision has been filed for setting aside the order dated 10.03.2021 (Annexure P-5) passed by learned Additional District Judge, Rohtak whereby, application seeking condonation of delay for filing an appeal against the judgment and decree dated 26.03.2019 (Annexure P-3) has been dismissed.

Learned counsel for the petitioner submits that the delay in filing appeal was unintentional and could not be filed within limitation due to pandemic of Covid-19.

Except the said statement, nothing has been placed on record as to how, the delay is being termed unintentional by the revision petitioner. In the impugned order, the Court below has given detailed facts that judgment and decree was passed in the presence of the parties and that being so, the averment that the said judgment and decree dated 26.03.2019

was not in the knowledge of the petitioner till December, 2019, cannot be believed. Still, the appeal was filed in August, 2020 i.e. after a period of 9 months even from the date of alleged knowledge of the judgment and decree dated 26.03.2019 and that too without specifying any reasons for the said delay.

During the course of arguments, learned counsel for the petitioner very fairly concedes that there is no explanation for the said delay other than the one mentioned in the application.

Proposition of law with regard to the condonation of delay has been settled by the Hon'ble Supreme Court of India in **Civil Appeal No.2474-2475 of 2012 titled as Officer of the Chief Post Master General and others versus Living Media India Ltd and another, decided on 24.02.2012.** In paragraph 13 of the said judgment, it has been held that even the State and its instrumentalities while filing an application for condonation of delay, have to show sufficient cause for the delay, before the same can be condoned. The Hon'ble Supreme Court of India has further held that mere explanation that the delay caused was due to procedural process or was unintentional, without any supporting evidence, cannot be accepted. The relevant paragraph of the judgment is 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 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.”

Recently, again the Hon'ble Supreme Court of India held that the condonation of delay application filed in a casual manner without cogent or plausible ground cannot be accepted. The Hon'ble Supreme Court of India while deciding **SLP No.19846 of 2020 titled as Union of India versus Central Tibetan Schools Admin and others on 04.02.2021**, has held as under:-

“6.The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the Statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgment in the State of Madhya Pradesh & Ors. v. Bheru Lal [SLP [C] Diary No.9217/2020 decided on 15.10.2020] and The State of Odisha & Ors. v. Sunanda Mahakuda [SLP [C] Diary No.22605/2020 decided on 11.01.2021]. The leeway which was given to the Government/public authorities on account of innate inefficiencies was the result of certain orders of this Court which came at a time when technology had not advanced and

thus, greater indulgence was shown. This position is no more prevalent and the current legal position has been 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. Despite this, there seems to be a little change in the approach of the Government and public authorities.

7. xxx xxx xxx xxx xxx xxx

8. Looking to the gross negligence and the impunity with which the Union of India had approached this Court in a matter like this, we consider it appropriate to impose special costs of Rs.1 lakh in this case to be recovered from the concerned officer(s), to be deposited with the Supreme Court Advocates on Record Welfare Fund within four weeks.”

Applying the said ratio of the settled principle of law stated hereinbefore in the present case, it is clear that there is no explanation given by the learned counsel for the petitioner for seeking the condonation of delay, except a bald statement that the revision petitioner did not know about the passing of the judgment and decree dated 26.03.2019 till December, 2019. Nothing has been brought to the notice of the Court below or even this Court to show the basis for such ignorance of judgment dated 26.03.2019 by the petitioner when the judgment and decree dated 26.03.2019 was passed in the presence of the parties.

Not only this, even from the alleged date of the knowledge of the judgment dated 26.03.2019 in December, 2019, there is a delay of approximately 9 months as the actual appeal is filed by the petitioner in August, 2020. Even the said delay of 09 months has not been explained by the petitioner except that the same was due to the pandemic of Covid-19. Even if limitation is taken from December, 2019 and three months' time is calculated from December, 2019, still the limitation expires in

February/March, 2020 and the lock-down due to the pandemic of Covid-19 only came in operation in the end of March, 2020 and was lifted in May, 2020. The appeal was actually preferred in August, 2020. Hence, the explanation being offered by the petitioner is not worth acceptance in this case. Learned counsel for the revision petitioner conceded that there is no other explanation for the delay.

In the present circumstances, no plausible explanation has been given for the delay worth acceptance. Rather, it is a case of lethargy and the department was not diligent enough to avail the remedy available to them. Crystallized rights of the other party cannot be taken away on the plea of the petitioner, which is not only devoid of merits but has been filed in a casual manner.

Keeping in view the facts and circumstances of this case as nothing plausible has been brought to the notice of this Court for condoning the delay, this Court cannot interfere in the order passed by the Court below dated 10.03.2021 (Annexure P-5) turning down the request of the petitioner for condonation of delay.

No ground is made out to interfere in the impugned order.

Accordingly, the present civil revision is dismissed.

July 16, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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