

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.383 of 2021

In
Civil Writ Jurisdiction Case No.16998 of 2012

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1. The Bihar State Housing Board, through its Managing Director, 6 Birchand Patel Road, Police Station – Sachiwalaya Thana, Patna, District – Patna.
 2. The Managing Director, Bihar State Housing Board, 6 Birchand Patel Road, Police Station – Sachiwalaya Thana, Patna, District – Patna.
 3. The Chief Accounts Officer, Bihar State Housing Board, 6 Birchand Patel Road, Police Station – Sachiwalaya Thana, Patna, District – Patna.
 4. The Accounts Officer, Bihar State Housing Board, 6 Birchand Patel Road, Police Station – Sachiwalaya Thana, Patna, District – Patna.

... .. Appellant/s

Versus

1. Deo Sundar Paswan, Son of Late Saudagar Paswan, resident of Plot No. U449, Mohalla Kankarbagh, Police Station – Kankarbagh, Patna, District – Patna.
2. The State of Bihar through Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Police Station – Sachiwalaya Thana, Patna, District – Patna.
3. The Regional Employees's Provident Fund Commissioner, Bihar Patna, Police Station – Sachiwalaya Thana, Patna District – Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mrs.Binita Singh, Advocate.
For the Respondent/s : Mr.Lalit Kishore (Ag)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

4 19-12-2022 Heard I.A. No. 01 of 2021 for condonation of delay of
4 years and 330 days in filing present Letters Patent Appeal.

Delay is enormous for which sufficient cause has not
been shown as is evident from Para-11 to 19 of the interlocutory
application.

Apex Court in the case of **Office of the Chief Post**



Master General & Ors. v. Living Media India Ltd. & Anr.

reported in (2012) 3 SCC 563 in Para-28 and 29 has held as under:

“28. 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 bona fides, 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.

29. 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 bona fide 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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

Similar view has been taken by the Apex Court in the year 2020 in the case of **University of Delhi v. Union of India & Ors.**, reported in (2020) 13 SCC 745 at Paragraph Nos. 24, 25 and 31 which reads as under:

“24. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the



consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public body. The entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified.

25. The entire explanation for the inordinate delay of 916 days is twofold i.e. the non-availability of the Vice-Chancellor due to retirement and subsequent appointment of new Vice-Chancellor, also that the matter was placed before the Executive Council and a decision was taken to file the appeal and the said process had caused the delay. The reasons as stated do not appear very convincing since the situation was of availing the appellate remedy and not the original proceedings requiring such deliberation when it was a mere continuation of the proceedings which had already been filed on behalf of the appellant herein, after due deliberation. Significantly, the Vice-Chancellor who was at the helm of affairs when the writ petition was filed, prosecuted and disposed of on 27-4-2015 [*University of Delhi v. Union of India*, 2015 SCC OnLine Del 9009] was available in the same office till 28-10-2015, for about six months which was a long enough period as compared to 30 days' limitation period for filing appeal. In that circumstance when the said Vice-Chancellor who had prosecuted the writ petition was available, the submission of the learned Senior Counsel for the



appellant that unseen hands are likely to have prevented the filing of the appeal also cannot be accepted. Secondly, the reason sought to be put forth about the decision required to be taken by the Executive Council is also not acceptable when it was just the matter of filing the appeal. In fact, in the writ petition an affidavit was filed referring to Resolutions 56 and 173 of Academic Council and Executive Council authorising for filing writ petition. When the writ petition was filed based on such authorisation and the stand of the appellant, as the writ petitioner was put forth and had failed in the writ petition, it cannot be accepted that the appellant with all the wherewithal was unable to file the appeal, that too when the same Vice-Chancellor was available for six months after dismissal of the writ petition. Hence the reasons put forth cannot in our opinion constitute sufficient cause.

31. In the matter of condonation of delay and laches, the well-accepted position is also that the accrued right of the opposite party cannot be lightly dealt with. In that regard, rather than taking note of the hardship that would be caused to Respondent 13 as contended by the learned Senior Counsel, what is necessary to be taken note of is the manner in which Respondent 11, DMRC has proceeded in the matter. Respondent 11, DMRC is engaged in providing the public transport and for the said purpose the Government through policy decision has granted approval to generate resources through property development and in that regard the development as earlier indicated, is taken up. Pursuant thereto Respondent 11 has received a sum of Rs 218.20 crores from Respondent 13 as far back as in the year 2008. The said amount as indicated is used for its projects providing metro rail service to the commuting public. In such circumstance, if at this stage the inordinate delay is condoned unmindful of the lackadaisical manner in which the appellant has proceeded in the matter, it would also be contrary to public interest.”

In the light of the aforesaid principle laid down by the



Apex Court to condone the enormous delay, sufficient cause has not been shown. Accordingly, I.A. stands rejected.

In the result, L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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