

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

1. CR-8335-2015 (O&M)
Date of decision: 11.11.2022

RAJESH MEHRA

..Petitioner

Versus

AMRITSAR IMPROVEMENT TRUST, AMRITSAR
THROUGH ITS CHAIRMAN & ANR

..Respondents

2. CR-8368-2015 (O&M)

RAJESH MEHRA

..Petitioner

Versus

AMRITSAR IMPROVEMENT TRUST, AMRITSAR
THROUGH ITS CHAIRMAN & ANR

..Respondents

3. CR-358-2016

SHIV KUMAR UPPAL THROUGH ATTORNEY
SH. NIRMOHAN SINGH

..Petitioner

Versus

AMRITSAR IMPROVEMENT TRUST, AMRITSAR
THROUGH ITS CHAIRMAN & ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dhiraj Mahajan, Advocate
for the petitioner.

Mr. S.C. Pathela, Advocate
Ms. Kavita Arora, Advocate
Mr. Karamjit Singh, Advocate
for respondent No.1-Amritsar
Improvement Trust.

ANIL KSHETARPAL, J(Oral)

1. This order shall dispose of three connected revision petitions.
2. The Additional District Judge, Amritsar, has condoned the
delay of 17 days in filing objections under Section 34 of the Arbitration and

Conciliation Act, 1996 (hereinafter referred to as 'the 1996 Act'). Challenging its correctness, these three revision petitions have been filed against the identical orders.

3. It has been found that the arbitrator failed to deliver signed copy of the award to Amritsar Improvement Trust, Amritsar. The Trust applied for a copy on 11.02.2014, which was delivered on 12.02.2014. The objections were filed along with an application dated 11.05.2014, seeking condonation of delay of 17 days in filing the same. Proviso to Section 34(3) of the 1996 Act enables the Court to condone the delay upto 30 days, which is outer limit.

4. The learned counsel representing the petitioner contends that the respondent has failed to disclose any plausible reason to seek condonation of delay. He submits that the Court should not condone the delay in such matters like it is done in ordinary civil proceedings.

5. On the other hand, the learned counsel representing the respondent-Trust submits that the Trust has been created by the Government of Punjab under The Punjab Town Improvement Act, 1922. The Trust has been established to make developments in the city. It has been submitted that the Trust is dealing with the public money and public interest, therefore the Court has taken a liberal view of the matter.

6. Undoubtedly, the delay in filing the objections under Section 34 of the 1996 Act cannot be condoned ordinarily. However, the Court is required to examine the facts and circumstances of each case. The Trust is a public body. It is run by nominated members. It has been stated in the application that the delay of 17 days was caused because the Trust was

required to take approval from the competent authority i.e. from the Chairman of the Trust as well as the Director, Local Government. In these circumstances, the learned counsel representing the petitioner is not correct while contending that no plausible explanation has been given. Moreover, in matters where the State is seeking condonation of delay, the Supreme Court in ***G.Ramegowda, Major vs. Special Land Acquisition Officer, Bangalore'*** **1988(2) SCC 142**, has held that some extra indulgence is required to be extended to the public authorities.

7. The relevant discussion is as under:-

*“14. The contours of the area of discretion of the courts in the matter of condonation of delays in filing appeals are set out in a number of pronouncements of this Court. See: **Ramlal, Motilal and Chhotelal v. Rewa Coalfield Ltd. AIR 1962 SC 361 : (1962) 2 SCR 762; Shakuntala Devi Jain v. Kuntal Kumari AIR 1969 SC 575 : (1969) 1 SCR 1006] ; Concord of India Insurance Co. Ltd. v. Nirmala Devi [(1979) 4 SCC 365 : AIR 1979 SC 1666 : (1979) 3 SCR 694] ; Lala Mata Din v. A. Narayanan [(1969) 2 SCC 770 : AIR 1970 SC 1953 : (1970)2SCR90]; Collector, Land Acquisition v. Katiji (1987) 2 SCC 107 etc. There is, it is true, no general principle saving the party from all mistakes of its counsel. If there is negligence, deliberate or gross inaction or lack of bona fides on the part of the party or its counsel there is no reason why the opposite side should be exposed to a time-barred appeal. Each case will have to be considered on the particularities of its own special facts. However, the expression “sufficient cause” in Section 5 must receive a liberal construction so as to advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of the delay. In Katiji case [(1987) 2 SCC 107] this Court said: (SCC p. 108, para 3)***

“When substantial justice and technical considerations are pitted against each other, cause

of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. . . .

It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”

- 15. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.*
- 16. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it.*
- 17. Therefore, in assessing what, in a particular case, constitutes “sufficient cause” for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have “a little play at the joints”. Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It*

would, perhaps, be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process.”

8. Keeping in view the aforesaid discussion, no ground to interfere is made out.
9. Dismissed.
10. Since these revision petitions are pending for the last seven years, therefore, the District Court is requested to finally decide the objections, positively within a period of six months.
11. All the pending miscellaneous applications, if any, are also disposed of.

November 11th, 2022
Ay

(ANIL KSHETARPAL)
JUDGE

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