

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CM- 2175-LPA-2021 in/and LPA-912-2021

Date of decision : 10.11.2022

Sohan Singh

.....Appellant

Versus

The State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sunil Agnihotri, Advocate, for the appellant.

Mr. Vikas Mohan Gupta, Addl. Advocate General, Punjab.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

This is an application under Section 5 of the Limitation Act, for condonation of delay of 1203 days in filing the accompanying appeal, under Clause X of the Letters Patent.

The only ground, set out in the application, on which the delay is sought to be condoned is: **“That the appellant filed the writ petition in the year of 1999 and same was admitted, further final argument was argued on dated 20.05.2016, so after hearing the argument this Hon’ble Court dismissed the writ petition vide order dated 20.05.2016 but it was not in the notice of the appellant that the writ petition filed by the appellant has been dismissed. Order dated 20.05.2016 by way of courier, it is very much pertinent to mention here that the courier received by the appellant on dated 06.09.2019, so appellant received an information regarding the dismissal of the writ petition on dated 06.09.2019 and the**

limitation to file the LPA before this Hon'ble Court is one month, to see the above mentioned facts and circumstance of the case it is very much clear that from the date of information the present appeal is within time. Due to this reason the delay of 1203 days of occurred."

Ex facie, the order and judgment under challenge was rendered by the learned Single Judge on 20.05.2016. The accompanying appeal was filed nearly after 3 ½ years on 04.10.2019. The explanation that the impugned order and judgment was not in the notice of the applicant and he, for the first time, acquired knowledge in this regard only on 06.09.2019, lacks bonafides. It is not credible that from 20.05.2016, when the impugned order and judgment was passed, till institution of the appeal (04.10.2019), the applicant-appellant did not even once contact his counsel or his office to ascertain the status of his petition. Significantly, it is not his case either that for over three years he never even once checked the fate of his petition. Thus, the version of the applicant-appellant, for lack of any conclusive material, remains unsubstantiated. As shall also be expedient to point out, the appeal filed by the applicant-appellant was returned by the Registry with certain objections and was re-filed on 20.12.2019. For, it still suffered from certain defects it was again returned to be re-filed on 29.07.2020. But as the applicant failed to cure all the defects, once again it was returned and was re-filed on 13.07.2021. Therefore, apparently the applicant-appellant was negligent in pursuing his cause all through. Perhaps even the institution of the accompanying appeal was merely speculative.

The law on condonation of delay, as propounded by the Supreme Court, entails that, while the expression 'sufficient cause' has to be interpreted liberally in the interest of substantive justice, however, a

negligent party cannot reap benefit of judicial generosity in condonation of delay for its inaction and lackadaisical attitude. Recently, the Supreme Court, in *Majji Sannemma @ Sanyasirao Vs. Reddy Sridevi and others, 2022 AIR (Supreme Court) 332* and *Lingeswaran Etc. Vs. Thirunagalingam, 2022 (2) RCR (Civil) 319*, has held that Court cannot condone the delay on the ground of equity, in absence of “reasonable, satisfactory or even appropriate explanation.” This Court in *Chander Bhan and another Vs. Guru Jambheshwar University of Science and Technology, Hisar, and another, (CM-434-LPA-2022 in/and LPA No. 175 of 2022)*, while relying upon the aforesaid judgments of the Supreme Court, has also taken the similar view.

That being so, and for the averments set out in the application do not constitute a sufficient cause, the delay of 1203 days in filing the accompanying appeal cannot be condoned. Accordingly, the application is dismissed.

As a consequence, the appeal also stands dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

November 10, 2022
Ndj/Manoj Bhutani

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