

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.365 of 2021

In
Civil Writ Jurisdiction Case No.2177 of 2019

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The State of Bihar through the Principal Secretary, Human Resources
Development Department Govt. of Bihar, Patna.

... .. Appellant/s

Versus

1. The Vice Chancellor, Purnea University, Purnea.
2. The Registrar, Purnea University, Purnea.
3. The Purnea University, Purnea through its Registrar
4. Anil Kumar Late Vikeshwar Yadav Resident of Maujampatti, P.S. Barhara
Kothi, District- Purnea.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Shashi Shekhar Tiwary (A.C. To A.A.G.5)
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-01-2023

Heard I.A. No 1 of 2021 arising out of LPA No. 365 of
2021 for condonation of delay of 823 days insofar as presenting
LPA. Perusal of application for condonation of delay the reason
assigned for condonation of delay of 823 days stated in Para 11 to
13 and it reads as under:-

*“11. That due to administrative
process delay of days has occurred in filing the
present memo of appeal. Hence the present
interlocutory application has been filed for
condonation of delay.*



12. That thus, it is just an expedient in the interest of justice that the delay in filing the present LPA may be condoned.

13. That in the facts and circumstances of this case, as has been stated above, there is no deliberate or willful delay or latches on the part of the appellants in filing the connected memo of appeal rather the delay caused on account of procedural formalities.”

There is no proper explanation to the extent that what is the date of learned Single Judge order, what is the date of application for certified copy and on what date it was received by the appellant thereafter what are the dates and events in processing of filling of LPA are not forthcoming, therefore, huge delay of 823 days cannot be condoned.

Accordingly, I.A. No. 1 of 2021 is rejected consequently, LPA stands dismissed.

We have come across in number of cases State Government time and again filling LPAs belatedly though State Government is well aware that LPA is required to be filed within the stipulated time. Despite that very casually reasons are assigned to condone the delay. Apex Court in the case of **State of Uttar Pradesh vs. Sabha Narain**, reported in **2022 9 SCC 266**



examined the delay in filing litigation in **Para 3 to 7** it is held as under:-

“ 3. 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 judgments in State of M.P. v. Bherulal [State of M.P. v. Bherulal, (2020) 10 SCC 654 : (2021) 1 SCC (Cri) 117 : (2021) 1 SCC (Civ) 101 : (2021) 1 SCC (L&S) 84] and State of Odisha v. Sunanda Mahakuda [State of Odisha v. Sunanda Mahakuda, (2021) 11 SCC 560 : (2022) 1 SCC (Cri) 300 : (2022) 2 SCC (L&S) 393] . 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 Postmaster General v. Living Media India Ltd. [Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] Despite this, there seems to be little change in the approach of the Government and public authorities.

4. We have also categorised such kind of cases as “certificate cases” filed with the only object to obtain a quietus from the Supreme Court on the ground that nothing could be done because the highest Court has dismissed the appeal. The objective is to complete a mere formality and save the skin of the officers who may be in default in following the due process or may have done it deliberately. We have deprecated such practice and process and we do so



again. We refuse to grant such certificates and if the Government/public authorities suffer losses, it is time when officers concerned responsible for the same, bear the consequences. The irony, emphasised by us repeatedly, is that no action is ever taken against the officers and if the Court pushes it, some mild warning is all that happens.

5. Looking to the period of delay and the casual manner in which the application has been worded, we consider appropriate to impose costs on the petitioner(s) of Rs 25,000 for wastage of judicial time which has its own value and the same be deposited with the Supreme Court Advocates-on-Record Welfare Fund within four weeks. The amount be recovered from the officers responsible for the delay in filing the special leave petition and a certificate of recovery of the said amount be also filed in this Court within the same period of time.

6. The special leave petition is dismissed as time-barred in terms aforesaid. Pending application stands disposed of.

7. A copy of this order be placed before the Chief Secretary for the State of Uttar Pradesh cautioning that any non-adherence with the aforesaid order within timeline would result in appropriate proceedings being initiated against the Chief Secretary himself.”

State Government must come forward with a policy insofar as monitoring litigation like fixing of time limits and responsibilities at each stage of Court cases where the Government, Boards/Corporation or Authorities or Autonomous Institution are the parties. Due to slackness in not filing litigation timely on behalf of the State or its institutions public money is



being wasted in other words tax payers money is misused. Therefore, the Chief Secretary, State of Bihar is hereby requested to make all necessary endeavour to evolve a scheme or policy as to how to monitor court cases and fixing responsibilities on the concerned officers including the respective law officers who are handling the respective case/s. For example how cases are to be monitored:-

(1) A copy of the writ petition received from the Patna High Court shall be entered in the register maintained for that purpose.

(2) Delay should be avoided in taking appropriate steps.

(3) If any, interim direction(directions/stay of any proceedings) is received without instructions appeal shall be filed against such interim orders or not?

(4) Advancement petition shall be filed through Law Officer in the fit case/s. If there is scope for filing writ/ LPA/revision/review the same shall be filed through the concerned Law Officer/learned Government Advocate timely.

(5) When the High Court judgment is received by the State Government or any other institution the same shall be entered into the register maintained for that purpose and further actions, if any.



(6) If the time limit is not specified in the judgment the modification, if any, shall be completed within a reasonable period of two weeks.

(7) If there is a scope for filing LPA against the order of the learned Single Judge. The proposal together with details of records, assessment of records, appellate orders to the competent officer/authority within a reasonable period of seven days of receipt of the learned Single Judge order or appellate authorities order.

(8) The time limit prescribed for filing LPA before the High Court is to be strictly adhered.

(9) A monthly report as to the implementation of judgment and filling up of LPA in fit cases shall be submitted to the competent authority.

(10) The time limit prescribed for filing review before the Hon'ble High Court if it is within thirty days and for filing SLP before the Hon'ble Supreme court is within ninety days. The same shall be taken into by the concerned officials in expediting in preferring LPA/SLP.

(11) If direction of the court is not complied within the time limit prescribed by the Court a non-compliance statement as



to the reasons for the delay in compliance the direction along with an affidavit to be filed by the competent authority.

(12) SLP shall be filed if aggrieved by the order of the High Court where question of law is involved, it should be filed timely.

(13) Other important follow up of actions are like-(i) preparation of statement of facts of filing of affidavit is most important action at the time of any litigation.

(ii) At state level in web portal and legal section maintain a repository of important cases/case laws/model statement of facts/detailed affidavit. Even creating an App to interact with official Government, Advocates who are involved in the matter to speed up the cases.

(14) Once in a month workshop at a State level to be arranged to discuss legal issues/cases/case studies on a fixed date or fixed time basis.

The above bullet points were required to be taken into while evolving scheme by the State Government insofar as fixing time limit and responsibilities at stage of Court Cases where the Government, Boards/Corporation or Authorities or Autonomous Institution. The State Government may also fix responsibilities on such of those officers who are all involved if there is any delay and



financial loss is cause to the state exchequer in this regard
necessary amendment may also be brought in under CCA Rules/
Disciplinary and Regulations.

Copy of this order shall be send to the Chief Secretary,
State of Bihar, learned Advocate General and Law Secretary,
Department of Law for taking appropriate steps in the matter.
Registry shall forward the copy to the aforesaid officials within a
period of two weeks from today.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.01.2023
Transmission Date	NA

