

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

(235/2)

LPA-345-2019 (O&M)

Decided on : 13.03.2023

State of Punjab & others

.....Appellant(s)

Versus

Kamlesh Rani

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Ms.Deepali Puri, Addl.A.G., Punjab, for the appellants.

Mr.Gautam Goyal, Advocate, for
Mr.Vivek Gupta, Advocate, for the respondent.

G.S. Sandhawalia, J. (Oral)

CM-766-LPA-2019

Application has been filed for condonation of delay of 754 days in filing the appeal against the order dated 07.12.2016 of the learned Single Judge passed in CWP-14564-2014 titled *Kamlesh Rani Vs. State of Punjab & others*.

As per the averments made in the application, the opinion of the Law Officer was taken 2 months later on 07.02.2017 and the sanction was granted after a period of more than 5 months thereafter on 18.07.2017. The case was got vetted from the office of the Advocate General, Punjab on 19.01.2018. It has been averred in para No.5 of the application that the appeal could not be submitted due to excessive registration and official work in the office of the Sub-Registrar, Barnala. Eventually, the appeal was filed only on 08.02.2019 which is after a period of one year after the vetting from the office of the Advocate General, Punjab.

In our considered opinion, the State cannot be put on to a higher pedestal for its inefficiency on account of rush of work. The law is settled beyond an anvil of doubt and reference can be made to the judgment of the Apex Court in **Office of the Chief Master General & others Vs. Living Media India Ltd. and another, (2012) 3 SCC 563**, wherein it was held that the law of limitation binds everyone including the Government and in the absence of any proper explanation, the delay is not liable to be condoned, which was of 427 days. Relevant portion of the said judgment reads as under:-

“12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. 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 bonafide, 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.

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. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

Apparently, there is indolence at the level of the State as it took one year to file the appeal after all the exercise had been done at the level of the Advocate General. It is settled principle that the other side has a legal vested right and on account of limitation, the said rights have got vested in the respondent. The State cannot seek indulgence at the asking from the Courts and therefore, we are of the considered opinion that no case is made out to condone the inordinate delay in the absence of any plausible reasons.

Accordingly, the present application for condonation of delay of 754 days in filing the appeal is dismissed. Resultantly, the main appeal along with all misc.application(s) are also dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

13.03.2023
sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No