

CM No. 6241-C of 2021 in/and
RSA No. 1568 of 2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(263)

CM No. 6241-C of 2021 in/and
RSA No. 1568 of 2021
Date of Decision : 17.01.2023

Avtar Singh and others

...Appellants

Versus

Harmesh Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Bikram Chaudhary, Advocate for the appellants.

Harsimran Singh Sethi J. (Oral)

The present appeal has been filed along with application seeking condonation of delay of 741 days.

The only ground, which has been mentioned in the application for condonation of delay, is that the delay is unintentional and bona fide. No facts, which lead to the delay in filing the present appeal so as to show that the same were bona fide and were beyond the control of the appellants, have been mentioned in the application.

It is a settled principle of law that after the expiry of the limitation period, a right accrues in favour of the other party so as to claim the benefit of finality of the legal proceeding, which right cannot be taken away without there being cogent reason so as to condone the delay.

Hon'ble Supreme Court of India in SLP No. 19846 of 2020

titled as ***Union of India versus Central Tibetan Schools Admin and others***, decided on 04.02.2021 held that unless and until the delay is explained and the Court is convinced that the said delay was bona fide, unintentional and the appeal could not have been preferred within the limitation as the same was beyond the control of the appellants, it was only at that stage, the Court should interference so as to condone the delay. The relevant paragraph of the said judgment is as under :-

“6.The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. 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 judgment in the State of Madhya Pradesh & Ors. v. Bheru Lal [SLP [C] Diary No.9217/2020 decided on 15.10.2020] and The State of Odisha & Ors. v. Sunanda Mahakuda [SLP [C] Diary No.22605/2020 decided on 11.01.2021]. 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 [Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. – \(2012\) 3 SCC 563](#). Despite this, there seems to be a little change in the

approach of the Government and public authorities.

7. xxx xxx xxx xxx xxx xxx

8. *Looking to the gross negligence and the impunity with which the Union of India had approached this Court in a matter like this, we consider it appropriate to impose special costs of Rs.1 lakh in this case to be recovered from the concerned officer(s), to be deposited with the Supreme Court Advocates on Record Welfare Fund within four weeks.”*

In the present case, not even a single fact has been mentioned, which delayed the filing of the appeal so as to claim the benefit of condonation of delay of 741 days.

Keeping in view the above fact, once there is no valid justification that has come on record to claim the condonation of delay in filing the present appeal, the prayer of the applicant-appellants is contrary to the settled principle of law and cannot be accepted and the said application is, accordingly, dismissed.

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As the application seeking condonation of delay has been dismissed, consequently, the present appeal filed cannot be touched on merit and the same is also dismissed.

January 17, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No