

FAO No. 6627 of 2018

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

FAO No. 6627 of 2018 (O&M)

Date of decision: 14th March, 2023

Haryana State Agricultural Marketing Board

Appellant

Versus

Kuldeep Kumar and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vishal Garg, Advocate for the applicant- appellant.
Mr. Ashok Gupta, Advocate for the respondents.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is accompanied by an applications for condoning delay of 296 days and seven days delay in re-filing thereof.
2. The dispute between the parties was referred for arbitration which culminated in award dated 16.9.2014. The objections filed by the applicant-appellant were dismissed on 9.8.2017 as time barred.
3. Learned counsel for the applicant-appellant submits that after receiving certified copy of order on 21.8.2017, opinion of the counsel who represented the applicant-appellant was sought. The counsel on 30.1.2018 opined that it is not a fit case for filing appeal. Thereafter the matter remained pending at various levels and ultimately it was decided that the

order dated 9.8.2017 should be challenged and the appeal was filed on 30.8.2018.

4. Learned counsel for the non-applicants/respondents opposes the prayer for condonation of delay and submits that no sufficient cause is pleaded for condoning the delay.

5. Before proceeding further, it would be gainful to cite the following judgments:

6. *The Supreme Court in **Office of the Chief Post Master General and others Versus Living Media India Ltd. And another, 2012 AIR (Supreme Court), 1506***

“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.”

7. The Supreme Court in ***The State of Bihar and others Versus Deo Kumar Singh and others Special Leave Petition (Civil) Diary***

No.13348 of 2019, decided on 9.5.2019 considering its decision in *Chief Post Master General case (supra)*, held that condonation of delay is no more admissible on the pretext of lethargic working of Government.

8. In case of *Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534*, the Supreme Court held that the delay in filing the appeal or revision cannot be mechanically condoned, in the absence of 'sufficient cause' for delay.

9. The only ground for condonation of delay is that the matter remained pending at various levels for almost one year. It would not be out of place to mention that there is no explanation put forth for a period of almost five months i.e. date of receipt of certified copy and the legal opinion received from the counsel.

10. The officials dealing with such matters are aware of the limitation provided under the Act. Merely that they took their own sweet time to deal with the file cannot be considered as a sufficient ground for condoning the delay.

11. In the absence of any explanation worth acceptance, the application for condonation of delay is dismissed. Consequently, the appeal is also dismissed.

[AVNEESH JHINGAN]
JUDGE

14th March, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |