

RA-CW-332-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RA-CW-332-2023 in CWP-6682-2022

Date of decision: October 30, 2023

Pooja

....Non-Applicant-Petitioner

versus

State of Haryana and others

....Applicant-Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Ms. SvaneelJaswal, Additional AG Haryana.

Mr. Rajat Mor, Advocate for non-applicant-petitioner.

ARUN MONGA, J. (ORAL)

Review application herein is for seeking review of order dated 31.03.2022 passed in CWP-6682-2022.

2. Along with the review application, an application seeking condonation of delay of 510 days in filing review application has also been filed.

2.1. Learned State counsel submits, as pleaded in the application, that after passing of impugned order on 31.03.2022, Commission received the opinion of Advocate General, Haryana on 28.07.2022 opining that matter is fit for filing LPA. However, a letter dated 05.01.2023 was written to learned Advocate General, Haryana with a request to reconsider the aforesaid opinion regarding filing LPA. Commission later decided to file instant review application disagreeing with the opinion rendered by Advocate General.

3. On advance service of copy of petition, learned counsel for the petitioner appears and opposes the prayer, and states that application seeking condonation of delay in filing review application has been filed without explaining the reasons for such a huge delay.

4. I have heard learned counsel for the parties and gone through the case file.

5. The explanation given in the application for condonation of delay, as noted herein above, does not inspire any confidence. Reason given therein essentially is that Commission sought opinion of learned Advocate General, Haryana, which was received on 28.07.2022 to file LPA. Commission once again requested the office of Advocate General, Haryana on 05.01.2023 to reconsider its aforesaid opinion. Thereafter, disagreeing with the

opinion, Commission decided to file review application, which was filed on or around 13.09.2023.

6. Perusal of the application would reveal that not only the application has been filed in a mechanical manner, but even the mandate of law, which envisages each day's delay has to be explained, is completely amiss in the averments of the application. No worthwhile explanation has been given for the same.

7. Flimsy grounds have been taken to explain the delay. Be that as it may, settled proposition of law being that by virtue of limitation, vested rights of litigant cannot be treated in such careless manner, so as to divest him of the same on as flimsy grounds as pleaded in the application herein. In this context, reliance may be had on the Apex Court judgment rendered in **Ramlal and others Vs. Rewa Coalfields Ltd.**¹. Relevant extract of the same is reproduced here-in-below:

“7. In construing Section 5 it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of decree holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge and this legal right which has accrued to the decree holder by lapse of time should not be lightly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the Court to condone delay and admit the appeal. This discretion has been deliberately conferred on the Court in order that judicial power and discretion in trial behalf should be exercised to advance substantial justice.”

8. No doubt, a discretion has been vested with court to condone the delay, provided sufficient cause thereof has been made out. I have already given my mind that reasons given in the application do not really make it out to be a sufficient cause. That apart, having perused the purported justification, I may hasten to add that very mechanical reasons have been given for the same. Almost suggestive, as if, to seek condonation of delay is a matter of right, regardless of the reasons qua the same.

9. In fact, going a step further, even sufficiency of cause, per se, does not result in any indefeasible legal right. Reference once again may be had on “**Ramlal**” judgment *ibid*, based whereupon, His Lordship R.F. Nariman, J. (as he then was), speaking for Apex Court

in Government of Maharashtra (Water Resources Department) versus M/s Borse Brothers Engineers & Contractors Pvt. Ltd.², , observed as below: -

“60. Also, it must be remembered that merely because sufficient cause has been made out in the facts of a given case, there is no right in the appellant to have delay condoned. This was felicitously put in **Ramlal v. Rewa Coalfields Ltd., (1962) 2 SCR 762** as follows:
It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by S. 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the Court is dealing with applications made under S. 14 of the Limitation Act. In dealing with such applications the Court is called upon to consider the effect of the combined provisions of SS. 5 and 14. Therefore, in our opinion, considerations which have been expressly made material and relevant by the provisions of S.14 cannot to the same extent and in the same manner be invoked in dealing with applications which fall to be decided only under S. 5 without reference to S.14.”

10. As an upshot of the aforesaid, no grounds to interfere for condonation of delay are made out. Dismissed on the grounds of delay.
11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 30, 2023

jyoti thakur

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No