

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

2024:PHHC:024596-DB

LPA-2132-2023 (O & M)
Date of Decision: 22.02.2024

Jagdish Prashad and others

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Sanjay Verma, Advocate,
for the appellants.

Mr. Deepak Balyan, Addl. A.G., Haryana.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

CM-5341-LPA-2022

1. Application for condonation of delay of 296 days in refiling the appeal is allowed, in view of averments made in the application duly supported by affidavit of appellant No.1.
2. Delay of 296 days in refiling the appeal is condoned.
3. CM stands disposed of.

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4. Consideration in the present letters patent appeal, which is barred by 1033 days of delay in filing the same, is to the order dated 18.03.2020 passed by the learned Single Judge in CWP-6979-2020, Jagdish Prashad and others vs. State of Haryana and others. The learned Single Judge followed the view which had been taken in *CWP-1426-2020, Mahabir Singh and others vs. State of Haryana and others, dismissed on 20.02.2020*. The said judgment was further

others, decided on 04.03.2021.

5. The three appellants in the present appeal have chosen not to file the appeal within the reasonable time. Even the application for condonation of delay in filing the appeal is bereft of any details as to what was the sufficient cause to prevent them from filing the appeal which is only preferred on 14.02.2023. Delay in the present appeal is, thus, fatal and has not been explained in any manner and, therefore, we are not inclined to condone the delay. Reliance can be placed upon the principles laid down by the Apex Court in ***Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation & another, 2010 (5) SCC 459*** and ***Isha Bhattacharya Vs. Managing Committee of Raghunathpur, Nafar Academy & others, 2014 (4) SCC (Crl.) 450*** wherein it has specifically been held that if the explanation is fanciful and there is lack of bona fide, then the delay is not to be condoned. Relevant portion of the judgment reads as under:

“15. From the aforesaid authorities the principles that can broadly be culled out are:

i) There should be a liberal, pragmatic, justice-oriented, non- pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining factsituation.

iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

iv) No presumption can be attached to deliberate causation of delay but, gross negligence

on the part of the counsel or litigant is to be taken note of.

v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

xii) *The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

xiii) *The State or a public body or an entity representing a collective cause should be given some acceptable latitude.*

16. *To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are: -*

a) *An application for condonation of delay should be drafted with careful concern and not in a half hazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

b) *An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

c) *Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

d) *The increasing tendency to perceive delay as a nonserious matter and, hence, lackadaisical propensity can be exhibited in a non-challant manner requires to be curbed, of course, within legal parameters.”*

6. Accordingly, the application for condonation of delay stands

dismissed. Consequently, the main appeal also stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

22.02.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No