

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

216

2023:PHHC:046202-DB
CM-1875-LPA-2017 in/and
LPA-882-2017
Date of decision:28.03.2023

State of Haryana & another

... Appellants

Vs.

Rampal Patwari & others

... Respondents

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Ms. Shruti Jain Goyal, DAG, Haryana.

Ms. Anita Balyan, Advocate for the respondents.

...

M.S. RAMACHANDRA RAO. (ORAL).

CM-1875-LPA-2017:

This application is filed under Section 5 of the Limitation Act to condone the delay of 607 days in filing in this appeal. In the application filed seeking condonation of delay, it is stated as under:

“2. That the Additional Chief Secretary to Government Haryana and Financial Commissioner, Revenue and Disaster Management Department, Chandigarh has averred vide letter No.3252-ARS-32015/14817 dated 16-11-15 that the Governor of Haryana is pleased to accord sanction to file the LPA. The said letter was received in the office of Deputy Commissioner, Sonipat on 24-11-2015 and thereafter the necessary action was initiated to get prepare the present LPA. Further the instruction from L.R. Haryana has been received only on dated 03-12-2015.”

Counsel for the State sought to contend that in view of the

reasons assigned in the application, the said delay of 607 days be condoned and the application be allowed.

Counsel for the respondents has opposed the condonation of delay and contended that though the judgment of the learned Single Judge was delivered on 24.07.2015, the appeal had been filed on 20.02.2017. It is further contended that the delay is inordinate and there has been negligence on the part of the appellant in taking steps to challenge the order of the learned Single Judge and therefore, the application for condonation of delay be dismissed.

We have noted the contentions of both sides.

Admittedly, the learned Single Judge had allowed the writ petition on 24.07.2015 and the LPA was presented before this Court on 20.02.2017. In the application filed seeking condonation of delay, it is stated that sanction to file the LPA was granted by the Additional Chief Secretary to the Government Haryana on 16.11.2015 that the said letter was received by the office of Deputy Commissioner, Sonapat on 24.11.2015 and necessary action was initiated to get prepare the present LPA. It is further stated that instructions from the L.R. Haryana were received only on 03.12.2015. If the decision to take the step to file the appeal was taken on 16.11.2015 and reiterated on 03.02.2015, why the appellants had to wait till 20.02.2017 is not stated in the application for condonation of delay. In **Office of the Chief Post Master General & others Vs. Living Media India Limited & another, 2012 (3) SCC 563**, the Hon'ble Supreme Court of India had held 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.”

That the Supreme Court had held that condonation of delay is an exception and if there is no proper explanation of the Department for delay, the application for condonation of delay should be rejected. Since in the instant case, there is no cogent explanation coming forth for the delay in filing the appeal, the application for condonation of delay is dismissed and consequently, the LPA is dismissed. The question of law, if any, arising in the appeal is left open for consideration in an appropriate case.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

28.03.2023

harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |