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

1. CR-7301-2023 (O&M)
Date of decision: 01.12.2025

State of Punjab and others

...Petitioners

Versus

Bharat Bhushan

...Respondent

2. CR-7304-2023 (O&M)
Date of decision: 01.12.2025

State of Punjab and others

...Petitioners

Versus

Bharat Bhushan

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Singh, AAG, Punjab, for the petitioners.
(In both the cases)

Mr. K.B. Raheja, Advocate for the respondent.
(In both the cases)

VIKAS BAHL, J. (ORAL)

1. This order will dispose of two revision petitions. The first
being CR-7301-2023 filed by the State of Punjab and others Vs. Bharat
Bhushan, in which challenge is to the order dated 10.07.2023 passed by



the Additional District Judge, Bathinda in CM-335-2021, titled as “State of Punjab and others Vs. Bharat Bhushan”, whereby an application under Section 5 of the Limitation Act for condonation of delay in filing the appeal had been dismissed. The second revision petition being CR-7304-2023 titled as “State of Punjab and others Vs. Bharat Bhushan” in which challenge is to the order dated 09.12.2021 vide which the Executing Court had dismissed the objections filed by the Judgment Debtors/petitioners/State of Punjab and others. In the said revision petition, challenge is also made to the order dated 10.07.2023 vide which appeal filed by the State of Punjab against the order dated 09.12.2021 had also been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONERS:-

2. Learned counsel for the petitioners-State has submitted that in the present case, suit filed by the respondent was decreed ex-parte vide judgment and decree dated 21.01.2017 (Annexure P-3). It is argued that on 29.03.2017, the petitioners filed an application under Order 9 Rule 13 CPC and in the said application, it had been stated that they learnt about the ex-parte judgment on 28.02.2017. It is further submitted that the said application was allowed on 20.12.2018 and suit was restored to its original number and thereafter, the respondent had filed revision petition challenging the order dated 20.12.2018 which was allowed on 13.09.2019. It is argued that since the petitioners, who were the defendants in the suit, had concurrent right of filing an application under Order 9 Rule 13 CPC as well as an appeal, thus, after passing of the judgment dated 13.09.2019, the



petitioners wanted to challenge the judgment and decree dated 21.01.2017 and accordingly, filed an appeal along with an application for condonation of delay. It is submitted that in the application for condonation of delay, it was specifically stated that opinion regarding further legal action to be taken in pursuance of the order of the High Court was received on 05.02.2020 and thereafter, the matter was considered and the appeal was preferred on 14.10.2021. It is submitted that in March 2020, COVID pandemic had started and by excluding the said COVID period, which was in the first instance upto 14.02.2021, delay in appeal was of only 11 days. It is submitted that since the delay had occurred on account of the fact that legal opinion had been received by the petitioners on 05.02.2020 and there was also COVID period, thus, the said delay should have been condoned, whereas, vide impugned order dated 10.07.2023, application for condonation of delay has been dismissed.

3. Learned counsel for the petitioners-State has further submitted that even CR-7304-2023 deserves to be allowed, inasmuch as, in the execution proceedings, the petitioners-State of Punjab had filed specific objections to the effect that they have filed an appeal against the judgment dated 21.01.2017 and had further stated that in the proceedings culminating into judgment dated 21.01.2017, ex-parte proceedings had been wrongly initiated against the petitioners and thus, the execution proceedings to implement the judgment and decree dated 21.01.2017 were illegal and against law and the said execution application deserved to be dismissed. It is prayed that both the revision petitions be allowed.



ARGUMENTS ON BEHALF OF THE RESPONDENT:-

4. Learned counsel for the respondent, on the other hand, has submitted that the respondent is 60% handicapped and the petitioners-State has delayed the proceedings at every stage. It is argued that the respondent had filed the suit in the year 2015 which was decreed by the trial Court on 21.01.2017 and since then, the proceedings are pending and the due benefit has not been given to the respondent. It is submitted that after passing of the judgment dated 21.01.2017, the petitioners-State had two options i.e., either to file an appeal against the said judgment and decree or to file an application under Order 9 Rule 13 CPC and the State of Punjab opted to file an application under Order 9 Rule 13 CPC which was initially allowed by the trial Court but ultimately, on 13.09.2019, the revision petition against the said order filed by the respondent was allowed. It is submitted that it was held in the said civil revision that the petitioners had been rightly proceeded against ex-parte and thus, ex-parte judgment and decree was upheld. It is submitted that the said order was passed in the presence of the counsel for the State and there is nothing on record to show that the petitioners-State had ever applied for the certified copy of the same and thus, the period of limitation for filing the appeal, which was initially from 21.01.2017, would in any case start from 13.09.2019, even in case the plea of the petitioners-State is taken to be true on its face value.
5. It is submitted that even if the alleged COVID period from 15.03.2020 till 14.02.2021, as argued on behalf of the State is excluded, then also appeal has been filed on 14.10.2021, which is after the period of



more than seven months from 14.02.2021. It is argued that no Notification giving any reference to any exemption regarding COVID pandemic has been annexed and moreover, since the limitation period had already elapsed prior to the starting of the alleged COVID pandemic, as argued by the counsel for the petitioners-State, thus, no benefit of the said period can be given to the petitioners-State. Learned counsel for the respondent has sought reliance upon a judgment of the Hon'ble Supreme Court in the case titled as **State of Madhya Pradesh and others Vs. Bherulal**, reported as **2020(10) SCC 654**, in support of his arguments. It is submitted that the respondent is running from pillar to post to get his rightful dues.

6. With respect to CR-7304-2023, it is submitted that both the objections raised by the petitioners-State, which have been highlighted before this Court deserve to be outrightly rejected. It is argued that it is the duty of the Executing Court to execute the decree and the pleas which are sought to be raised on behalf of the petitioners cannot be raised before the Executing Court.

ANALYSIS AND FINDINGS:-

7. This Court has heard learned counsel for the petitioners-State of Punjab and others as well as learned counsel for the respondent and has perused the paper-book of both the revision petitions and finds that both the revision petitions are meritless and deserve to be dismissed and the impugned orders passed in both the cases deserve to be upheld for the reasons detailed hereinafter.

8. It is not in dispute that the respondent-Bharat Bhushan had



filed a suit with the following prayers: -

“Suit for declaration to the effect that the plaintiff is deemed to have been promoted as SS Master in master Cadre from the year 2006 ie the date of promotion of master cadre (Social study teachers) on which employees upto to the year 2001 were promoted and the plaintiff is entitled to pay all consequential service benefits including pay, seniority etc alongwith interest @ 18% per annum from the due till actual payment.

And

Suit for mandatory injunction directing the defendants to give pay to the plaintiff from December 2001 to 30.1.2008 as fixed by defendant no.6 and entries made in his servicebook.”

9. The said suit was decreed vide judgment dated 21.01.2017. A perusal of the said judgment and decree dated 21.01.2017 (Annexure P-3) would show that it was recorded by the trial Court that the defendants/present petitioners failed to appear and thus, were proceeded against ex-parte. It is further not in dispute that the petitioners/defendants did not choose to file an appeal against the said judgment and decree dated 21.01.2017 and chose to file an application under Order 9 Rule 13 CPC on 29.03.2017 for setting aside the said judgment and decree. The application filed by the petitioners-State was allowed by the trial Court vide order dated 20.12.2018. However, importantly against the said order dated 20.12.2018, a civil revision i.e. CR-795-2019 was filed, in which, due notice was issued to the State of Punjab and the said revision petition was allowed by a Coordinate Bench of this Court vide order dated 13.09.2019 after hearing the counsel for the respondent-Bharat Bhushan as well as the



counsel for the State. In the said judgment, it was specifically observed that it could not be refuted that the present petitioners/defendants had knowledge of the pendency of the case. The relevant portion of the said order dated 13.09.2019 is reproduced hereinbelow:-

“Civil Revision No.795 of 2019 (O&M)

Date of Decision: 13.09.2019

Bharat Bhushan

.....Petitioner

Vs

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. D.S. Malwai, Advocate for the petitioner.

Ms. Maloo Chahal, D.A.G., Punjab.

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[12]. Factum of receipt of the aforesaid letter was communicated to the petitioner by defendant No.5 vide letter No.4014/155 dated 30.05.2017 under RTI Act, 2005 (Annexure P-8). Even the pendency of civil suit was noticed in the intra-departmental communication from the office of Director Prosecution and Litigation and Addl. Secretary, Punjab Government, Chandigarh to District Attorney, Bathinda and the intimation issued by the District Attorney, Bathinda to Director Education Department (Sr.Sec) Punjab, Mohali vide letter No.567/DA dated 01.03.2016.

[13]. All these material facts could not be refuted by the respondents with reference to any material on record suggesting that defendant No.5 was not having any knowledge regarding pendency of the suit.

[14]. For the reasons recorded hereinabove, the impugned order dated 20.12.2018 passed by the Addl. Civil Judge (Sr. Divn.) Bathinda is not legally sustainable and is thus set



aside. This revision petition is allowed. Normal consequences to follow.”

10. A perusal of the above order would show that counsel for the State of Punjab had appeared in the said civil revision petition. It is not disputed that the period for filing an appeal against the judgment and decree is 30 days. The said 30 days had started from 21.01.2017 when the ex-parte judgment and decree was passed. Even in case the date of initiation of period of limitation is taken from 13.09.2019 i.e., the date when the civil revision was decided, then also, it is apparent that the said limitation elapsed on 13.10.2019. However, admittedly, an appeal was filed by the petitioners on 14.10.2021 i.e., after a period of more than two years even from the abovesaid date of 13.10.2019 and regarding the said period, there is no plausible explanation nor sufficient cause has been shown. There is nothing to show that the petitioners-defendants ever applied for certified copy of the said order or after preparation of the said copy, some time was taken by the Registry to prepare the same. Even in the application for condonation of delay, no date for applying for the certified copy of the said order had been mentioned. It had merely been stated that opinion regarding further legal action was received in the office of the petitioners on 05.02.2020. Once the counsel for the State had appeared in the revision petition and the case was decided after hearing all the parties concerned including the State Counsel, then period of limitation cannot possibly start from the date when the opinion regarding further legal action was allegedly received by the petitioners in their office.



Moreover, nothing has been referred to on behalf of the petitioners to show that opinion regarding further legal action was received in the office by the petitioners on 05.02.2020.

11. Argument raised before this Court to the effect that there was COVID from 15.03.2020 to 14.02.2021 is also completely unsubstantiated. No Notification on the said aspect has been referred to on behalf of the petitioners. Moreover, once period of limitation had elapsed much prior to 15.03.2020 i.e., on 21.02.2017 (one month from 21.01.2017) or at best on 13.10.2019 (one month from 13.09.2019) then, no benefit for the said alleged COVID pandemic can be given to the State. Moreover, importantly, even after 14.02.2021, appeal has been filed by the petitioners-State on 14.10.2021 i.e., after a delay of 8 months and has not been filed within one month even from the said date. Thus, at every stage, the petitioners-State have been lax in pursuing the case. The averments made in the application for condonation of delay are vague and do not constitute a sufficient cause. The First Appellate Court vide impugned order dated 10.07.2023 had rightly observed that delay in the present case was of more than 1155 days whereas in the application for condonation of delay, it had been wrongly stated that there was only 11 days of delay. Thus, even the application does not seek condonation of the exact number of days of which the delay has occurred and rather, without any basis, has stated that there is only delay of 11 days. The First Appellate Court had further observed that there was no explanation given by the petitioners for the delay having occurred after passing of the order by the Coordinate



Bench of this Court dated 13.09.2019 and that limitation had elapsed much prior to the onset of COVID, which as per the case of the petitioners had started from 15.03.2020. The petitioners, as observed in the impugned order, had concurrent remedies and thus, should have availed both the remedies of filing an appeal and an application under Order 9 Rule 13 CPC within the period of limitation prescribed for each of the remedies and thus, should have filed an appeal against the judgment dated 21.01.2017 within one month therefrom. In the present case, the petitioners did not even file the appeal within a period of one month from 13.09.2019, after the revision petition filed by the respondent was allowed, and the ex-parte judgment was upheld, whereas the said appeal has been filed on 14.10.2021. No due explanation has been given for the inordinate delay in filing the appeal.

12. The Hon'ble Supreme Court in the case of ***State of Madhya Pradesh and others*** (Supra), had taken into consideration the law laid down by the Hon'ble Supreme Court in the case of **Office of the Chief Post Master General and others Vs. Living Media India Ltd. and another** reported as **(2012) 3 SCC 563**, in which it was observed that it was right time to inform all the Government bodies, their agencies and instrumentalities that unless reasonable and acceptable explanation for the delay is given and there was bonafide effort made on their behalf to pursue the case, there was no need to accept the usual explanation given by the State that file was kept pending before various Departments. In the said judgment, it was also observed that the condonation of delay is an



exception and cannot be used as an anticipated benefit for Government Departments, as law shelters everyone under the same light and there should be no special benefit for a few. After considering the abovesaid judgment in ***Office of the Chief Post Master General and others's case (Supra)***, the Hon'ble Supreme Court, apart from dismissing the Special Leave Petition as time barred, had also imposed costs of Rs.25,000/- on the petitioner-State. Relevant portion of the said judgment is reproduced hereinbelow:-

*“3.This position is more than 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** where the Court observed 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 redtape 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.”

Eight years hence the judgment is still unheeded!

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7. We are thus, constrained to send a signal and we propose to do in all matters today, where there are such inordinate delays that the Government or State authorities coming before us must pay for wastage of judicial time which has its own value. Such costs can be recovered from the officers



responsible.

8. Looking to the period of delay and the casual manner in which the application has been worded, we consider appropriate to impose costs on the petitioner- State of Rs.25,000/- (Rupees twenty five thousand) to be deposited with the Mediation and Conciliation Project Committee. The amount be deposited in four weeks. The amount be recovered from the officers responsible for the delay in filing the special leave petition and a certificate of recovery of the said amount be also filed in this Court within the said period of time.

9. The special leave petition is dismissed as time barred in terms aforesaid.

10. We make it clear that if the aforesaid order is not complied within time, we will be constrained to initiate contempt proceedings against the Chief Secretary.”

13. The law laid down in the said judgment completely supports the case of the respondent herein. No contrary judgment has been cited on behalf of the petitioners. Thus, the impugned order passed in CR-7301-2023 is in accordance with law and deserves to be upheld.

14. With respect to the objections raised in the execution proceedings, which is the subject matter of challenge in CR-7304-2023, it would be relevant to note that it is the duty of the Executing Court to execute the decree. The objections raised by the petitioners, who are the judgment debtors, which have been highlighted before this Court to the effect that ex-parte decree was wrongly passed and that appeal had been filed by the petitioners against the judgment dated 21.01.2017 and on the said account, the execution application should be dismissed are, on the face of it, meritless. Additionally, it would be relevant to note that the ex-



parte proceedings have been held to be in accordance with law by the Coordinate Bench of this Court in CR-795-2019 decided on 13.09.2019, and it is not disputed that the said order had not been further challenged. Further, even appeal filed by the petitioners-State against the judgment dated 21.01.2017 has been dismissed vide order dated 10.07.2023, on the ground of limitation, which order has been upheld by this Court in CR-7301-2023. Thus, both the said objections do not even survive. At any rate, the Executing Court cannot go beyond the decree and apparently, the objections have been filed only to delay the execution of the decree, which is against the mandate of law laid down by the Hon'ble Supreme Court in the case titled as **Periyammal (Dead) through LRs and Ors. Versus Rajamani and Anr.** reported as **2025 SCC Online SC 507**, in which the Executing Courts have been directed to dispose of the execution proceedings within six months. Thus, the impugned orders which are subject matter of challenge in CR-7304-2023 also deserve to be upheld.

15. Keeping in view the abovesaid facts and circumstances, both the revision petitions are meritless and are accordingly dismissed and the impugned orders passed in both the said revision petitions are upheld.

16. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

01.12.2025

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No