



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 20.01.2025

+ LPA 488/2022 and CM APPL. 36930/2022-Stay, CM APPL.36929/2022-Delay

DIRECTORATE OF EDUCATION

.....Appellant

Through: Mr. Udit Malik, ASC (Civil) for GNCTD with Ms. Rima Rao and Ms. Palak Sharma, Advocates.

Versus

RAMJAS SCHOOL

.....Respondent

Through: Mr. Kamal Gupta, Mr. Sparsh Aggarwal, Ms. Yosha Dutt, Ms. Rashi Agarwal and Mr. Aaditya Dhull, Advocates.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

SAURABH BANERJEE, J (ORAL)

1. The present appeal under Clause X of the Letters Patent Appeal seeks to assail the order dated 20.05.2019 passed by the learned Single Judge in W.P.(C) No.9688/2019, whereby, the learned Single Judge has allowed the writ petition of the respondent by upholding its decision to increase the School fees for the Academic Session 2016-2017.

2. Succinctly put and prior to proceeding to deal with the merits involved, we may note that the present appeal has been filed after more than two years and three months from the passing of the impugned order. However, taking into account the orders passed by the Apex Court in *suo moto* W.P. (C) No.3/2020, since the period till 28.02.2022, was required to be excluded for the purposes of computing limitation, the appellant before us has filed the present appeal alongwith an application under Section 5 of



the Limitation Act, 1963 (*said application*), albeit seeking condonation of delay of the remaining 175 days only after 28.02.2022.

3. Interestingly, in the said application seeking condonation of delay in filing the present appeal, the appellant has in paras 3 and 5 primarily pleaded that the delay was inadvertent and occurred on account of the following reasons. The said relevant paragraphs are being reproduced as under:

“3. That it is submitted that taking the approval of various officials of the Applicant Department, vetting and perusing the grounds of appeal preparation of the appeal memorandum, collection of information / documents / armexures, vetting of facts in the prepared affidavit from the Office of Deputy Director of Education, District South West-A of at C-4, Vasant Vihar, New Delhi and Head Quarter level of Directorate of Education , GNCT of Delhi at Old Secretariat, Delhi took time. Moreover, it is respectfully submitted that the concerned court case files dealing with the preparation of EPA and seeking the requisite approval(s) from the department, post-preparation of the appeal, went through various branches at Zonal Level /District level and at Head Quarter Level of the Directorate of Education, GNCT of Delhi.

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5. That in briefing Standing Counsel (Civil) GNCTD and getting prepared LPA, it took some time. Further, Directorate of Education being a Govt. department, decision to file LPA in the present matter is routed through various channels & it took time, by the Deponent before filing the present LPA.”

4. Sans the above averments, there is nothing else stated which is/ or, for that matter, can be said to be material or of any importance in the said application for the purposes of our adjudication thereof. In fact, learned counsel for the appellant in support of the above, reiterates that the reason(s) for delay in preferring the present appeal was that the appellant had to obtain signatures of the officials from the various concerned departments which



took some time as also for briefing the concerned Standing Counsel (Civil), GNCTD.

5. The application is vehemently opposed by learned counsel for the respondent, Mr. Kamal Gupta, who submits that the aforesaid reasons furnished by the appellant in the said application are absolutely cryptic and cannot be, in any manner, said to be sufficient reasons for condoning the delay in filing the present appeal.

6. Mr. Kamal Gupta, learned counsel for the respondent further submits that the issue decided by the learned Single Judge pertains to the fees recovered by the School for the Academic Session 2016-2017, which amount, as per him, has already been spent by the School in providing amenities. In effect, he wishes to submit that much water has flown since then as long time has elapsed thence. He, therefore, prays that the application seeking condonation of 175 days delay in filing the appeal be dismissed.

7. Having considered the submissions of learned counsel for the parties and upon perusal of the record, we may note that the aforementioned paras 3 and 5 of the application, wherein, the appellant has sought to furnish reasons for seeking condonation of delay in filing of the present appeal thereby, disclosing that the justification(s) sought to be provided by the appellant for the delay of 175 days in filing of the present appeal are only that the said time period was spent in obtaining approval from various officials of the department of the appellant as also for preparing and perusing the appeal paper book and securing the signatures of the Deputy Director on the affidavit in support of the present appeal and *lastly* that it required time to brief the learned Standing Counsel (Civil) for GNCTD, who was to appear



in Court on its behalf.

8. A perusal of the said application reveals that the appellant has merely made general, rather, basic averments without giving any proper details and/or particulars *qua* the approvals taken by the department and/ or time period involved for it to seek recourse under Section 5 of the Limitation Act, 1963 (the Act). This, unfortunately, can prove to be damaging since one of the most essential requirement(s) for a party (like the appellant herein to seek benefit under Section 5 of the Act) is that the appellant is required to make out, show and also establish any “*sufficient cause*” on account of which the appellant was prevented from and was unable to file the present appeal within the prescribed period of limitation under the statute. In case there is nothing in support thereof, we are afraid that the appellant cannot be allowed to take benefit of its own negligence and inaction. In this case, admittedly, the appellant has indeed approached us with a very basic application under Section 5 of the Act which contains no sufficient reason(s) for seeking condonation of such a huge delay of 175 days in filing the present appeal.

9. In this regard, we may refer to a very recent decision in Civil Appeal No.317/2025 titled ***H. Guruswamy & Ors. vs. A. Krishnaiah Since Deceased By LRS***, wherein the Apex Court has held as under:

“15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.

16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a



period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

(Emphasis supplied)

17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the ‘Sword of Damocles’ hanging over the head of a litigant for an indefinite period of time.”

10. As per the aforestated settled position of law and the facts borne out before us, it is clear that at the end of the day stating reasons for establishing a “*sufficient cause*” for a party like the appellant is in fact a *pre-requisite* to seek benefit of the provisions as contained under Section 5 of the Act *qua* condoning the delay in filing the present appeal. We, once again reiterate that, *admittedly*, the said application of the appellant is indeed bereft of any such reasons disclosing any “*sufficient cause*”. We feel there is hardly any scope for us to accord any benefit thereof to the appellant herein.

11. This is more so, since when we are considering an application for condonation of delay in filing an appeal like the present one, wherein, the appellant herein is trying to seek recourse under Section 5 of the Act, there



are *two* noteworthy considerations that we have to bear in mind. *Firstly*, we are to see as to what is the length of the delay involved by the appellant in approaching this Court to file the present appeal. *Secondly*, we are also to take note of the fact as to whether the appellant has been able to make out and/ or show a “*sufficient cause*” supplemented with explicit reason(s) on account of which the said delay occurred, which prompted the appellant to file the present appeal after the lapse of the prescribed period for limitation under the statute.

12. Unfortunately, we do not see any reason to condone the huge delay of 175 days in the appellant preferring the present appeal before us. Alas, and moreover, the appellant has not been able to demonstrate any plausible reason enabling us to condone the prolonged delay of 175 days. This is, as neither there is/ are any such explanation for the length of the delay involved in approaching this Court to file the present appeal nor the appellant has been able to show and/ or make out a case showing “*sufficient cause*” with any explicit reason(s) on account of which the said delay occurred and which prompted the appellant to file the present appeal after the lapse of the prescribed statutory period for limitation. Therefore, the appellant is unable to fulfil either of the twin pre-requisites as discussed above.

13. In any event, in our considered view the aforesaid plea taken by the appellant in the said application *qua* obtaining approvals from various officials of its departments, briefing the learned Standing Counsel (Civil) for GNCTD as also preparing and perusing the appeal paper book cannot be said to be justifiable and treated as “*sufficient cause*” for the said application under Section 5 of the Act to be allowed. Thus, the same inspire no confidence in us.



14. Interestingly, in FAO(OS) (COMM) 22/2024 titled ***Union of India vs. BESCO Limited (Wagon Divison)***, *albeit*, while dealing with any appeal under Section 37 of the Arbitration and Conciliation Act, 1996 involving a similar application seeking condonation of 112 days in filing the appeal, we, after relying upon a decision of the Apex Court in ***Basawaraj v. Land Acquisition Officer***, (2013) 14 SCC 81 as also observing the dicta of the Apex Court in ***Government of Maharashtra vs. M/s Borse Brothers Engineers & Contractors Pvt. Ltd.*** (2021) 6 SCC 460, had dismissed the said application, holding as under:-

“12. In the light of the aforesaid, we find that the reasons set out by the appellant for seeking condonation of delay cannot be said to be falling within the category of either ‘sufficient cause’ or ‘exceptional circumstances’. Though learned counsel for the appellant has, by placing reliance on the decision in ***Jaitely Construction Ltd.*** (*supra*), vehemently urged that once the Apex Court had condoned the delay of 244 days in filing the appeal under Section 37 of the Arbitration and Conciliation Act, the delay in the present case being 112 days, this Court ought to take a liberal view and condone the said delay. Having perused the said decision, we find that in ***Jaitely Constructions*** (*supra*) the Apex Court had condoned the delay of 244 days in filing the appeal under Section 37 of the Arbitration and Conciliation Act, 1996 only upon finding that as per the documents produced by the appellants therein, alongwith the application, an exceptional case was made out. On the other hand, in the present case, we find that the appellant has acted in a most callous and negligent manner and even the bald explanation given in the application is not supported by any documents. Once no sufficient cause for seeking condonation of delay has been shown, the decision in ***Jaitely Constructions*** (*supra*) will not be applicable to the present case.

13. Further, we are of the view that it is not merely the number of days of delay, which would be material for considering the application seeking condonation of delay but it



is the sufficiency of reasons for the delay which would be material to determine whether the delay should be condoned. For this purpose, we may refer to paragraph 65 of the decision of the Apex Court in Borse Brothers Engineers (supra), wherein the Court had, while dealing with Civil Appeal arising out of SLP (C) NO.665/2021, declined to condone the delay of 131 days beyond the 60 days period provided for filing of an appeal under the Commercial Courts Act. The relevant extract of the said decision reads as under:-

“65. Apart from this, there is a long delay of 131 days beyond the 60- day period provided for filing an appeal under section 13(1A) of the Commercial Courts Act. There is no explanation worth the name contained in the condonation of delay application, beyond the usual file-pushing and administrative exigency. This appeal is therefore dismissed.”

14. In fact, it also emerges that in the same decision, the Apex Court while dealing with SLP (C) No.15278/2020 had declined to condone even the delay of 75 days in filing an appeal which was otherwise required to be filed within 60 days under the Commercial Courts Act, 2015. It would, therefore, be apposite to refer hereinbelow to the paragraph nos. 67 and 68 of the said decision as well.

“67. That apart, on the facts of this appeal, there is a long delay of 75 days beyond the period of 60 days provided by the Commercial Courts Act. Despite the fact that a certified copy of the District Court’s judgment was obtained by the respondent on 27.04.2019, the appeal was filed only on 09.09.2019, the explanation for delay being:

“2. That, the certified copy of the order dated 01/04/2013 was received by the appellant on 27/04/2019. Thereafter the matter was placed before the CGM purchase MPPKVVCL for the compliance of the order. The same was then sent to the law officer, MPPKVVCL for opinion.

3. That after taking opinion for appeal, and approval of the concerned authorities, the officer-in-charge was appointed vide order dated 23/07/2019.



4. That, thereafter due to bulky records of the case and for procurement of the necessary documents some delay has been caused however, the appeal has been prepared and filed to pursuant to the same and further delay.

5. That due to the aforesaid procedural approval and since the appellant is a public entity formed under the Energy department of the State Government, the delay caused in filing the appeal is bonafide and which deserve[s] to be condoned.

68. This explanation falls woefully short of making out any sufficient cause. This appeal is therefore allowed and the condonation of delay is set aside on this score also.”

15. In the light of the aforesaid, we are of the considered view that the explanation furnished by the appellant does not show any sufficient cause whatsoever for condonation of delay of 112 days in filing of the appeal, which was otherwise required to be filed within 60 days as prescribed under Section 37 of the Arbitration and Conciliation Act.”

15. On account of all the above observations and findings, we find no occasion for venturing into the merits involved in the present appeal, more so, since the averments made in the said application under Section 5 of the Act is/ are insufficient for the appellant to seek condonation of 175 days delay in filing the present appeal.

16. However, it is clarified that since the appellant has raised questions about the charging of the fees by the School authorities without any interference from the Directorate, we make it clear that since we have not expressed any opinion on the merits of the issues raised in the present appeal. It is made clear that the said issue is not being adjudicated on merits and is kept open.

17. In light of the above observations, we have no option but to dismiss the present application seeking condonation of 175 days delay in filing the



present appeal. Needless to say, as necessary corollary the appeal also stands dismissed.

18. The pending application is, accordingly, disposed of.

(SAURABH BANERJEE)
JUDGE

(REKHA PALLI)
JUDGE

JANUARY 20, 2025/*uk/Ab*