HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Spl. Appl. Writ No. 1961/2018

1. State Of Rajasthan, Through The District Collector, Sri Ganganagar.
2. Executive Engineer, Water Resources Anoopgarh Branch, Division-Ii, Ghadsana, Sri Ganganagar.
3. Superintending Engineer, Water Resources Circle, Sri Vijaynagar, District Sri Ganganagar.

----Appellants

Versus

Bahadur Ram S/o Shri Hari Ram, B/c Meghwal, 2-Mld, Old Ghadsana, Tehsil Ghadsana, District Sri Ganganagar.

----Respondent

For Appellant(s)	:	Mr. Sajjan Singh Rathore, AAG assisted by Mr. Rajdeep Singh Chouhan
For Respondent(s)	:	Mr. NR Budania

HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA

Order

27/01/2025

1. The present appeal has been filed alongwith an application under Section 5 of the Limitation Act seeking condonation of delay of 173 days.

2. Mr. Rathore, learned counsel for the appellant-State submitted that the delay caused in preferring the present appeal is bonafide. He added that disciplinary proceedings have been initiated against the officials responsible for the delay and they have been penalized as well.

3. He argued that since the order of learned Single Judge has larger repercussions, the delay in filing appeal be condoned.

4. Learned counsel for the respondent (writ petitioner) opposed the application filed by the State under section 5 of the Limitation Act and submitted that there is no justifiable reason or explanation has been given for the inordinate delay of 173 days and the State has got up from his slumber only when similar cases were decided by the Division Bench(es) and SLP(s) were filed thereagainst. He relied upon various judgments and submitted that such inordinate delay should not be condoned by the High Court.

5. Having heard learned counsel for the parties and considering that the State has taken action against the erring officials, this Court feels that the inordinate delay deserves to be condoned in the interest of justice.

6. The application filed under section 5 of the Limitation Act is therefore, allowed.

7. Heard on merit.

8. The present appeal has been preferred by the State challenging the order dated 14.02.2018, passed by learned Single Judge, whereby the writ petition filed by the respondent-petitioner was allowed in terms of the judgment dated 13.04.2012 passed in Krishan Kumar Vs. State of Rajasthan : S.B. Civil Writ Petition No.3967/2008.

9. Mr. Budania, learned counsel for the respondent submitted that the State had preferred an intra-court appeal being D.B. Spl. Appl. Writ No.112/2017 (State of Rajasthan & Ors. vs. Pratap Singh & Ors.), which was dismissed by the Division Bench vide order dated 10.03.2017, while observing thus:-

"By way of this appeal, the appellants have challenged the judgment and order of the learned Single Judge whereby the learned Single Judge has allowed the writ petition filed by the writ petitioners (respondents herein) relying upon the decision of this Court in Krishan Kumar vs. State of Rajasthan [S.B. Civil Writ Petition No.3967/2008].

The learned Single Judge in para 9 of the impugned order has observed as under:

> *"9. In the result, the writ petition is allowed. The order impugned passed by the respondent No.2, the Executive Engineer, Sri Vijaynagar, is quashed. The competent authority is directed to consider the application of the petitioners for supply of water to the land in question afresh, treating it to be command land, in accordance with the provisions of the Rajasthan Irrigation and Drainage Act, 1954 and the Rules made thereunder expeditiously, preferably within a period of two months from the date of receipt of certified copy of this order. No order as to costs."*

In that view of the matter, we are of the considered opinion that the observations made by the learned Single Judge in the aforesaid paragraph is in accordance with law. The appellants (respondents herein) have to act in accordance with law. We find no reason to interfere.

The appeal stands dismissed accordingly."

10. He added that the State has challenged the above referred order dated 10.03.2017 before Hon'ble the Supreme Court by way of filing Special Leave Petition (civil) [Diary No.9823/2019] and

the same too has been rejected by Hon’ble the Supreme Court vide order dated 20.11.2024 on the ground of delay so also on merit.

11. In view of the aforesaid, since the matter has attained finality in the case of Pratap Singh (supra), this Court is of the view that the present appeal is also liable to be dismissed in light of the judgment dated 10.03.2017 passed by the Division Bench of this Court, which has been affirmed by Hon’ble the Supreme Court as stated in preceding para.

12. The appeal stands dismissed.

13. All interlocutory application(s) and stay applications are disposed of, accordingly.

(CHANDRA SHEKHAR SHARMA),J **(DINESH MEHTA),J**

9-raksha/-