

LPA No.2444 of 2016 (O&M)

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

LPA No.2444 of 2016 (O&M)

Date of decision: 22.12.2016

Haryana State Cooperative Supply & Marketing Federation Ltd.

....Appellants

Versus

Bhoop Singh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Mr. R.D. Bawa, Advocate, for the appellant.

Mr. R.K. Malik, Sr. Advocate, with

Mr. Mandeep Singh, Advocate, for the caveator-respondents.

AJAY KUMAR MITTAL, J. (ORAL)

Present Letters Patent Appeal under Clause X of the Letters Patent Act has been filed against the judgment dated 14.07.2015 whereby CWP No.25545 of 2014 filed by the respondents has been allowed.

2. A Caveat has been filed by learned counsel for the respondents. At the outset, learned counsel for the caveator-respondents submitted that there is inordinate delay of 481 days in filing the appeal. In view thereof, appeal should not be entertained. He made efforts to justify the order passed by this Court in the writ petition.

3. We have heard learned counsel for the parties.

4. The primary question that arises for consideration in this appeal is whether there is sufficient cause for condonation of colossal delay of 481 days in filing the appeal before this Court.

5. Examining the legal position relating to condonation of delay under Section 5 of the 1963 Act, it may be observed that the Supreme Court in

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Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation and another, (2010) 5 SCC 459 laying down the broad principles for adjudicating the issue of condonation of delay, in paras 14 & 15 observed as under:-

“14. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time.

15. The expression “sufficient cause” employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning

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the delay of short duration and a stricter approach where the delay is inordinate-Collector (L.A.) v. Katiji N. Balakrishnan v. M. Krishnamurthy and Vedabai v. Shantaram Baburao Patil.”

6. It was further noticed by the Apex Court in **R.B. Ramlingam v. R.B. Bhavaneshwari 2009(1) RCR (Civil) 892** as under:-

“.....It is not necessary at this stage to discuss each and every judgment cited before us for the simple reason that Section 5 of the Limitation Act, 1963 does not lay down any standard or objective test. The test of “sufficient cause” is purely an individualistic test. It is not an objective test. Therefore, no two cases can be treated alike. The statute of limitation has left the concept of “sufficient cause” delightfully undefined, thereby leaving to the Court a well-intentioned discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with by the Court as such.”

It was also recorded that:-

“For the aforestated reasons, we hold that in each and every case the Court has to examine whether delay in filing the special leave petition stands properly

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explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the prosecution of his appeal/petition....”

7. From the above, it emerges that the law of limitation has been enacted which is based on public policy so as to prescribe time limit for availing legal remedy for redressal of the injury caused. The purpose behind enacting law of limitation is not to destroy the rights of the parties but to see that the uncertainty should not prevail for unlimited period. Under Section 5 of the 1963 Act, the courts are empowered to condone the delay where a party approaching the court belatedly shows sufficient cause for not availing the remedy within the prescribed period. The meaning to be assigned to the expression “sufficient cause” occurring in Section 5 of the 1963 Act should be such so as to do substantial justice between the parties. The existence of sufficient cause depends upon facts of each case and no hard and fast rule can be applied in deciding such cases.

8. The Apex Court in **Oriental Aroma Chemical Industries Ltd. and R.B. Ramlingam's cases (supra)** noticed that the courts should adopt liberal approach where delay is of short period whereas the proof required should be strict where the delay is inordinate. Further, it was also observed that judgments dealing with the condonation of delay may not lay down any standard or objective test but is purely an individualistic test. The court is required to examine while adjudicating the matter relating to condonation of delay on exercising judicial discretion on individual facts involved therein. There does not exist any exhaustive list constituting sufficient cause. The

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applicant/petitioner is required to establish that in spite of acting with due care and caution, the delay had occurred due to circumstances beyond his control and was inevitable.

9. In our opinion, no satisfactory explanation in respect of inordinate delay of 481 days in filing the appeal has been tendered by the appellant. The Government department is supposed to pursue its litigation with due diligence. A stale matter cannot be revived by approaching the Court belatedly.

10. In view of the above, we do not find any merit in the application for condonation of 481 days' delay in filing the appeal. Consequently, the same is hereby dismissed.

11. Accordingly, the appeal is dismissed on the ground of delay and laches.

(AJAY KUMAR MITTAL)
JUDGE

December 22, 2016
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No