
(2014) 07 MP CK 0151

In the Madhya Pradesh High Court

Case No : Writ Appeals No. 957 to 960 of 2013

Principal Secretary State of M.P.

APPELLANT

Vs

Banesingh Gurjar

RESPONDENT

Date of Decision : 17-07-2014

Acts Referred:

Citation : (2014) 07 MP CK 0151

Hon'ble Judges : Shantanu Kemkar, J;Mool Chand Garg, J

Bench : Division Bench

Advocate : Mini Ravindran, Learned Deputy Government Advocate, Advocate for the Respondent

Final Decision : Dismissed

Judgement

1. This order shall govern disposal of Writ Appeals No. 957 to 960 of 2013. For the sake of convenience, facts are taken from Writ Appeal No. 957/2013.

2. Heard on IA No. 5895/2013, an application seeking condonation of delay in filing the appeal.

3. The delay is of 382 days.

4. This intra court appeal is directed against the common order dated 06.09.2012 passed by the learned Single Judge of this Court in Writ Petition No. 8527/2010(s). The said writ petition was allowed by the learned Single Judge taking into consideration large number of cases decided on the issue in favour of the petitioner and the fact that the issue involved had already attained finality on the basis of the view taken by the Supreme Court.

5. Challenging the said order, which was passed on 06.09.2012, this appeal has been filed in which the following averment has been made for seeking condonation of delay:-

"1. That the appellants have filed Writ Appeal before this Hon'ble Court against the order dated 06.09.2012 passed in WP No. 8527/2010(s) (Annexure A/1) by

Hon"ble Single Judge whereby the petition preferred by the Respondent has been allowed.

It is most humbly submitted that the Writ Appeal is being filed beyond the 290 days of limitation for which explanation is being given as under.

2. That the order was passed on 06.09.2012. The petitioner/respondent supplied the copy of the order on 28.09.2012. Thereafter a letter for opinion was sent to the Government Advocate. The Government Advocate given opinion vide letter dated 06.11.2012. Thereafter vide letter dated 09.11.2012 the proposal for filing Writ Appeal was sent to the higher authorities i.e. Deputy Director, Health Services, Bhopal. Thereafter, the Deputy Director required summary of the case and same was sent to him vide letter dated 30.11.2012. Thereafter a reminder dated 14.03.2013 was sent to the head office. Thereafter vide memo dated 08.07.2013 the Law Department granted permission to file Writ Appeal. The said permission letter was sent by the Head Office to the Officer in charge of the case vide letter dated 08.08.2013.

3. After receiving the permission of the Law Department the Officer in charge collected the record of the case and contacted the Office of Advocate General, at Indore where the record of the case was perused and appeal was drafted and same is being filed without any further delay.

3. It is most humbly submitted that the delay of 290 day has been caused due to official formalities and procedure and same is bona fide and deserves to be condoned in the interest of justice and there is no willful and deliberate delay in filing this Writ Appeal."

6. On going through the aforesaid averments, it is clear that very casual approach has been made by the appellant/State in seeking condonation of delay. The explanation offered cannot be said to be satisfactory explanation.

7. The recent decision of the Supreme Court in Office of the Office of The Chief Post Master General and Others Vs. Living Media India Ltd. and Another, is directly on the point. In this case, there was a delay of 427 days in filing the appeal before the Supreme Court against the judgment of the High Court and the certified copy of the High Court judgment was applied after four months with no explanation why it was not applied for within a reasonable time. The Supreme Court, after examining other dates mentioned in the affidavit of the person-in-charge of the case to justify the delay found that there was delay at every stage with no explanation for the cause of delay. The Supreme Court also took serious note of the casual-manner in which the Government departments are functioning-showing virtually no respect to the law of limitation. And, while dismissing the appeal on the ground of delay, the Supreme Court has made the following observation:

"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.

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 bona fide 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."

8. The aforesaid view has again been affirmed by the Supreme Court in case of State of U.P. Thr. Exe. Engineer and Another Vs. Amar Nath Yadav,

9. In the circumstances, in the absence of any satisfactory explanation seeking condonation of such a huge delay, in our considered view, no case for condonation of delay is made out.

10. Consequently, application (IA No. 5895/2013) deserves to be and is hereby dismissed.

11. As a result, the writ appeal is also dismissed.