

(2020) 09 RAJ CK 0077
In the Rajasthan High Court
Case No : Civil Review Petition No. 82 Of 2018

Rajasthan State Road Transport Corporation And Ors	APPELLANT
Vs	
Sher Singh	RESPONDENT

Date of Decision : 10-09-2020

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2020) 09 RAJ CK 0077

Hon'ble Judges : Mahendar Kumar Goyal, J

Bench : Single Bench

Advocate : Alok Chaturvedi, Vinayak Kumar Joshi

Final Decision : Dismissed

Judgement

This review petition is delayed by 559 days. It is accompanied with an application under Section 5 of the Limitation Act, 1963.

A perusal of the application reveals that review of the judgment dated 19.11.2016 passed in S.B. Civil Second Appeal No. 110/2000 is being sought. The judgment dated 19.11.2016 was assailed before the Hon'ble Supreme Court of India; but, the petition was withdrawn on 10.04.2017. Thereafter, this review petition has been filed on 01.06.2018 i.e. with a delay of 559 days. A perusal of the application filed under Section 5 of the Limitation Act reveals that it is bereft of any reason explaining inordinate delay in preferring the review petition. As a matter of fact, the only reason assigned is in para 3 of the application, which is as under:

"3. That the counsel for the review petitioners- defendants-Corporation sought leave to withdraw the special leave petition with the prayer to file a review petition before the Hon'ble High Court. The review petitioner availed the remedy of SLP and thereafter because of departmental exigency as also departmental formalities, the delay was occurred in filing the present review petition. The delay was on account of official cause and if the delay is not condoned would frustrate

the cause of justice. The delay is unintentional and it is just because of benevolence cause. In the facts and circumstances the review petitioners shall suffer irreparable and irremediable injury if the delay is not condoned."

It is apparent from the contents of para 3 of the application that it does not offer any explanation what to speak of satisfactory reason for inordinate delay in filing the review petition. It is true that some lineancy is extended by the Court in entertaining the applications seeking condonation of delay by the Government/Statutory authorities; but, the salutary object behind the Limitation Act cannot be set at naught merely on asking of the Government/Statutory Authorities.

The Hon'ble Apex Court has, in case of *Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai*: (2012) 5 Supreme Court Cases 157, held as under:

"23. What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.

25. In cases involving the state and its agencies/instrumentalities, the court can take note of the fact that sufficient time is taken in the decision-making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the state and/or its agencies/ cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest."

A perusal of the application reveals the casual and cavalier manner in which the petitioner has proceeded to file the review petition as well as in filing application seeking condonation of delay. Since, the application under Section 5 of the Limitation Act does not contain any reason warranting condonation of inordinate delay of 559 days in preferring the review petition, the same does not merit acceptance and deserves to be dismissed. This Court finds no justification for condoning the delay in filing the review petition.

Resultantly, the application seeking condonation of delay is dismissed with a cost of Rs.10,000. The cost shall be deposited with the Rajasthan State Legal Services Authority, Rajasthan High Court, Jaipur within a period of four weeks from today.

The petitioner-Corporation shall be at liberty to recover the cost from the erring official(s).

The review petition also stands dismissed accordingly.