

(2024) 03 OHC CK 0050
In the Orissa High Court
Case No : FAO No.1000 Of 2019

State Of Odisha & Another

APPELLANT

Vs

Ms. Asima Satpathy & Another

RESPONDENT

Date of Decision : 07-03-2024

Acts Referred:

Orissa Education Act, 1969 — Section 24C
Limitation Act, 1963 — Section 5

Citation : (2024) 03 OHC CK 0050

Hon'ble Judges : Biraja Prasanna Satapathy, J

Bench : Single Bench

Advocate : Sangram Jena, N. Nayak

Final Decision : Dismissed

Judgement

Biraja Prasanna Satapathy, J.

1. I.A. No.1647 of 2019

This is an application filed by the appellants seeking condonation of delay of around 3544 days in filing of the appeal in question.

2. It is contended that GIA Case No.34 of 2006 was filed by the respondent No.1 seeking approval of her services and release of grant-in- aid as admissible under law. The Tribunal vide its judgment dtd.06.02.2010 allowed the claim of respondent No.1 with a direction to approve her services as against the 6th post of Lecturer in History w.e.f. 10.12.1993 and to extend the benefit of grant-in-aid @ 1/3rd w.e.f. 10.12.1998, 2/3rd w.e.f. 21.12.2000 and full salary cost w.e.f. 10.12.2002.

2.1. It is contended that after due deliberation it was ultimately decided to challenge the judgment dtd. 06.02.2010 in question by filing the appeal in terms of the provisions contained under Section-24-C of the Odisha Education Act, 1969 and the appeal was filed on 23.12.2019. With regard to condonation of

delay in filing the appeal, the following stand has been taken by the appellants in Para-2 & 3 of the interim application which are reproduced hereunder:-

"2. That, the statutory provisions of Section 24-C of the Orissa Education Act, 1969 requires for filing of Appeal within 60 days from the date of passing of the judgment. But in the present GIA case, the learned Tribunal passed the judgment dated 06.02.2010. Information regarding disposal of the case could not be brought to the knowledge of the present appellants for the fact that by the time the case was disposed on ex-parte, the incumbency of the Govt. Advocate was fallen vacant due to sad demise of the Govt. Advocate and the post was not filled up since long. None the less the certified copy of the order / judgment impugned was also not receive in the office of the appellants from the learned Tribunal or from any source. It was for the 1st time, the present appellant No.1 could have the knowledge of disposal of the GIA case when he received a letter being No.109(2)/GA (SET), dtd.09.01.2018 from the Govt. Advocate instructing therein to furnish full compliance report or stay order from the Hon'ble High Court or the Hon'ble Supreme Court to avoid stringent action in execution proceeding initiated by the Tribunal in Execution Case No.30/2016 filed by the Respondent No.1 for execution of order dtd.06.02.2010 passed in GIA Case No.34/2006.

3. That, immediately thereafter, the Director, Higher Education was requested by the office of the Appellant No.1 vide Letter No.1692/HE, dtd.18.01.2018 to furnish eligibility report in respect of the Respondent No.1 and the matter was followed up vide subsequent reminder No.14445/HE, dtd.17.05.2018. Finally, the Director, Higher Education furnished his memorandum vide Letter No.28483, dtd.04.08.2018. The file was processed on 26.08.2018 by the Administrative Section and the file was sent to the Branch Officer proposing to challenge the correctness of the impugned judgment of the learned Tribunal. The Branch officer on 28.09.2018 sent the file to the appellant no.1 to obtain approval of law Department to challenge the impugned orders. Such file was sent to Law Department on 28. 09.2018 and the Law Department sent back the file to the office of the appellant No.1 on 07.01.2009 raising some objection for compliance. The objections of Law Department were taken care of and complied and the file was submitted to the Branch Officer on 25.11.2019 for obtaining the decision of the Appellant No.1 to take further course of action. However, the appellant No.1 after examining the eligibility of the Respondent No.1 took decision to file FAO against the order dtd.06.02.2010 passed in GIA Case No.34/2006. It is humbly submitted that in view of the fact that the appellant No.1 was not aware of the disposal of the GIA case till he received intimation from the Govt. Advocate, SET on 09.01.2018 and thereafter sincere steps were taken to complete the process of determining eligibility of the Respondent and to finally take the decision for assailing the impugned orders. The delay cause being not within the control of the Appellant No.1 in view of the aforesaid reasons, such delay may not be held as deliberate nor intentional but the same maybe treated as bonafide".

2.2. Placing reliance on the stand taken in Para-2 & 3 of the I.A, learned State

Counsel contended that the order passed by the Tribunal on 06.02.2010 came to the knowledge of the Department only on 09.01.2018 and the Department after duly deliberation decided to challenge the judgment by filing the present appeal in question and the appeal was filed on 23.12.2019. It is accordingly contended that the delay in filing of the appeal since is neither intentional nor deliberate, rather a bona fide one, the delay in filing of the appeal is required to be condoned.

2.3. In support of his submission, learned counsel appearing for the Appellants relied on the orders passed by the Hon'ble Apex Court on 22.11.2019 in SLP (Civil) Diary No.33245 of 2018 and similar SLPs.

It is contended that in all the aforesaid orders, Hon'ble Apex Court was pleased to condone the delay in filing the Special Leave Petition by imposing a cost of Rs.50,000/- on the State. One of the order passed in SLP (Civil) Diary No.33245 of 2018 is reproduced hereunder:-

"Delay condoned.

Subject to the Petitioner-State depositing a sum of Rs.50,000/- (Rupees fifty thousand only) in the Registry of this Court within four weeks from today, issue notice, returnable on 13.01.2020,

Dasti service, in addition, is permitted.

If the amount is not deposited within the stipulated time, the special leave petition shall stand dismissed without further reference to the Court.

Upon deposit, the amount shall be invested in a fixed deposit receipt with a nationalized bank initially for a period of 90 days with auto renewal facility.

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Diary No.33248/2018; Diary No.33650/2018; Diary No.39345/2018;

Diary No.39309/2018; Diary No.39347/2018; Diary No.39352/2018

Diary NO.31098/2019; and Diary No.33665/2019

Mr. Ashok Parija, learned Senior Counsel invited out attention to the judgment and order dated 16.09.2019 passed in Civil Appeal No.7295 of 2019 and all other connected matters. The issue involved in the matter was set out in para 1 of the said judgment as under:

"1. The question involved in the appeals is whether the employees are entitled to claim grant-in-aid as admissible under the Orissa (Non-Government Colleges, Junior Colleges and Higher Secondary Schools) Grant-in-aid Order, 1994 (hereinafter referred to as the 'the order of 1994'), after its repeal in the year 2004 by virtue of provisions contained in Orissa (Non-government Colleges, Junior Colleges and Higher secondary Schools) Grant-in-aid Order, 2004 (hereinafter referred to as the 'the order of 2004'). The order of 2004 has also

been repealed by Orissa (Aided Colleges, Aided Junior Colleges, and Higher Secondary Schools) Grant-in-aid Order, 2008.”

The conclusion drawn by the Court as set out in para 31 was as under:

“31. It is apparent on consideration of Paragrapha 4 of order of 2004 that only saving of the right is to receive the block grant and only in case grant in aid had been received on or before the repeal of the Order of 2004, it shall not be affected and the Order of 1994 shall continue only for that purpose and no other rights are saved. Thus, we approve the decision of the High Court in Lok Nath Behera (supra) on the aforesaid aspect for the aforesaid reasons mentioned by us.”

Relying on the aforesaid observations, it is submitted that the only right that was saved was to receive the block grant and only in case the grant-in-aid was received on or before the repeal of the Order of 2004. It is further submitted that the decision of the High Court in Loknath Behera was approved by this Court. Exactly contrary situation has now been accepted by the High Court in the orders presently under appeal.

We must however state that the matters were disposed of by the High Court as the petition in every case was delayed by at least 800 days. In the circumstances, we pass following order:-

a) Delay condoned.

Subject to the petitioner-state depositing a sum of Rs.50,000/- (Rupees fifty thousand only), to the account of every petition in the Registry of this Court within four weeks from today, let notices be issued to the respondents, returnable on 13.01.2020.

Dasti service, in addition, is permitted.

b) If the amount is not deposited within the stipulated time, the special leave petitions shall stand dismissed without further reference to the Court.

c) Upon deposit, the amount shall be invested in a fixed deposit receipt with a nationalized bank initially for a period of 90 days with auto renewal facility.

Mr. Subhasish Mohanty, learned Advocate-on-Record, who has appeared on behalf of Caveator/ Sole respondent in SLP (Civil) Diary No.31098 of 2019, accepts notice on behalf of sole respondent. He prays for and is granted three weeks’ time to put in affidavit in reply.

Rejoinder, if any, be filed within two weeks’ thereafter.

List all the matters on 213.01.2020”.

2.4. Learned State Counsel also relied on the decision rendered by the Hon’ble Apex Court on 09.10.2023 in Civil Appeal No.5867 of 2015 (Sheo Raj Singh (Deceased) Through Lrs. & Ors. vs. Union of India & Anr.)

Placing reliance on the decision in Sheo Raj Singh as provided under Section-5 of the Limitation Act, it is contended that, the term sufficient cause is elastic enough for Courts to do substantial justice. Further, when substantial justice and technical considerations are pitted against one and another, the former would prevail. Since in the present case the Tribunal allowed the claim of the respondent without following the decision of this Court in the case of Laxmidhar Pati vs. State of Orissa & Others (1996) (I) OLR- 152 as well as other decisions rendered by this Court, in view of the ratio decided in the case Sheo Raj Singh and the order passed by the Hon'ble Apex Court in SLP (Civil) Diary No.33245 of 2018, 38574 of 2015 and 11604 of 2020 in condoning the delay, subject to payment of cost of Rs.50,000/- the delay in filing of the present appeal is required to be condoned as substantial question of law is involved.

2.5. Hon'ble Apex Court in Para-31(b) and 37 of the Judgment in Sheo Raj Singh has held as follows:-

"31.b. The expression sufficient cause is elastic enough for courts to do substantial justice. Further, when substantial justice and technical considerations are pitted against one another, the former would prevail".

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37. Having bestowed serious consideration to the rival contentions, we feel that the High Court's decision to condone the delay on account of the first respondent's inability to present the appeal within time, for the reasons assigned therein, does not suffer from any error warranting interference. As the aforementioned judgments have shown, such an exercise of discretion does, at times, call for a illiberal and justice-oriented approach by the Courts, where certain leeway could be provided to the State. The hidden forces that are at work in preventing an appeal by the State being presented within the prescribed period of limitation so as not to allow a higher court to pronounce upon the legality and validity of an order of a lower court and thereby secure unholy gains, can hardly be ignored. Impediments in the working of the grand scheme of governmental functions have to be removed by taking a pragmatic view on balancing of the competing interests".

3. Mr. N. Nayak, learned counsel appearing for the Respondent on the other hand made his submission contending inter alia that even though G.I.A Case was disposed of by the Tribunal vide judgment dtd.06.02.2010, but the present appeal was only filed on 23.12.2019, with delay of around 3544 days. But no sufficient cause has been shown by the State-Appellant for such inordinate delay, save and except taking a plea that the judgment passed by the Tribunal on 06.02.2010 was forwarded to the Department only vide letter dtd.09.01.2018 and on receipt of the order, Director, Secondary Education was immediately requested to furnish eligibility report vide letter dtd.18.01.2018. After receipt of the report from Appellant No.2 vide letter dtd.04.08.2018, the matter was returned to law Department on 28.09.2018. Even though Law Department sent

back the file on 07.01.2019 raising some objection, but the file was ultimately sent to appellant No.1 on 25.11.2019 and the appeal accordingly was filed on 23.12.2019.

3.1. It is contended that neither in the Interim Application nor in the memo of appeal, any cause has been shown with regard to the delay for the period from 06.02.2010 to 09.01.2018 and as to why the order passed by the Tribunal on 06.02.2010 come to the knowledge of the department only on 09.01.2018.

3.2. It is accordingly contended that since the delay for the period from 06.02.2010 to 09.01.2018 has not at all been explained by assigning any cause lest sufficient cause and so also the delay for the period from 9.1.2018 to 25.11.2019, the delay in filing of the appeal is not required to be condoned by this Court as prayed for.

3.3. Learned counsel appearing for the Respondents also contended that the delay in filing the appeal has not been properly explained by showing sufficient cause and in view of the decision of the Hon'ble Apex Court in the case of Postmaster General & Ors. Vs. Living Media Ltd. & Anr. ((2012) 3 SCC 563) and the decision of this Court in State of Odisha & Ors. Vs. Sales Tax Officer, Cuttack II (W.P.(C) No. 15763 of 2021), the delay is not required to be condoned.

3.4. Hon'ble Apex Court in Para 27 and 29 of the Judgment in the case of Postmaster General & Ors. has held as follows:-

"27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

29. 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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

Similarly this Court in the case of State of Odisha & Ors in Para -5 has held as follows:-

"5. The Supreme Court has recently in a series of matters reiterated that the

explanation usually offered by the State and its entities for the delay on account of administrative exigencies should not be accepted unless they are shown to be justified. A sampling of such orders is as under:

(i) Order dated 13th January 2021 in SLP No.17559 of 2020 (State of Gujarat v. Tushar Jagdish Chandra Vyas & Anr.)

(ii) Order dated 22nd January 2021 in SLP No.11989 of 2020 (The Commissioner of Public Instruction & Ors. v. Shamshuddin)

(iii) Order dated 22nd January 2021 in SLP No.25743 of 2020 (State of Uttar Pradesh & Ors v. Sabha Narain & Ors.)

(iv) Order dated 4th February 2021 in SLP No.19846 of 2020 (Union of India v. Central Tibetan Schools Admin & Ors)

(v) Order dated 11th January 2021 in SLP No.22605 of 2020 (The State of Odisha & Ors v. Sunanda Mahakuda)”

3.5. Learned counsel appearing for the Respondents also relied on the decision in the case of State of Uttar Pradesh & Others vs. Sabha Narain & Others reported in (2022) 9 SCC 266 . Hon’ble Apex Court in Para-3 to 5 of the said judgment has held as follows:-

“3. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please, ignoring the period of limitation prescribed by the statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgments in State of M.P. v. Bherulal [State of M.P. v. Bherulal, (2020) 10 SCC 654 : (2021) 1 SCC (Cri) 117 : (2021) 1 SCC (Civ) 101 : (2021) 1 SCC (L&S) 84] and State of Odisha v. Sunanda Mahakuda [State of Odisha v. Sunanda Mahakuda, (2021) 11 SCC 560 : (2022) 1 SCC (Cri) 300 : (2022) 2 SCC (L&S) 393] . The leeway which was given to the Government/public authorities on account of innate inefficiencies was the result of certain orders of this Court which came at a time when technology had not advanced and thus, greater indulgence was shown. This position is no more prevalent and the current legal position has been elucidated by the judgment of this Court in Postmaster General v. Living Media India Ltd. [Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] Despite this, there seems to be little change in the approach of the Government and public authorities.

4. We have also categorised such kind of cases as “certificate cases” filed with the only object to obtain a quietus from the Supreme Court on the ground that nothing could be done because the highest Court has dismissed the appeal. The objective is to complete a mere formality and save the skin of the officers who may be in default in following the due process or may have done it deliberately. We have deprecated such practice and process and we do so again. We refuse to grant such certificates and if the Government/public authorities suffer losses, it is

time when officers concerned responsible for the same, bear the consequences. The irony, emphasised by us repeatedly, is that no action is ever taken against the officers and if the Court pushes it, some mild warning is all that happens.

5. Looking to the period of delay and the casual manner in which the application has been worded, we consider appropriate to impose costs on the petitioner(s) of Rs 25,000 for wastage of judicial time which has its own value and the same be deposited with the Supreme Court Advocates-on-Record Welfare Fund within four weeks. The amount be recovered from the officers responsible for the delay in filing the special leave petition and a certificate of recovery of the said amount be also filed in this Court within the same period of time”.

3.6. Learned counsel for the Respondents also relied on another decision of the Hon’ble Apex Court in the case of State of Kerala vs. Akshaya Jewellers reported in 2023 SCC OnLine SC 1437. Hon’ble Apex Court in Para-4 & 5 of the said order has held as follows:-

“4. We have considered the rival contentions of the parties. At the outset, we find that delay of 390 days in filing the Special Leave Petition, now converted into Civil Appeal, has not been explained to the satisfaction of this Court, inasmuch as there is no narration as to what happened between 18.02.2019, the date on which the impugned order was passed till 25.04.2019. Thereafter the only explanation given is that the file had got mixed up with some other files and, therefore, ultimately only on 13.01.2021, the same was noticed and steps were taken to send a letter to the Office of the Advocate General of the State of Kerala and a copy to the Special Govt. Pleader (Taxes) and thereafter, steps were taken to file the appeal on 22.07.2021.

5. We find that the reason cited for the gross delay of 390 days in filing the Special Leave Petition, now converted into a Civil Appeal, does not persuade us to condone the delay. The explanation offered is not satisfactory and not sufficient in the eye of law to condone the delay”.

3.7. Learned counsel for the Respondents also relied on the decision reported in (2020) 13 SCC 745, Hon’ble Apex Court in Para-19 to 24 and 31 has held as follows:-

“19. Though we have exhaustively referred to the pleadings and the contentions of the parties, including contentions put forth on merits, the same is only for completeness and to put the matter in perspective before considering the issue relating to delay and laches. In the instant case, considering that the Division Bench [University of Delhi v. Union of India, 2018 SCC OnLine Del 12085] of the High Court has dismissed the LPA on the ground of delay of 916 days, that aspect of the matter would require consideration at the outset and the facts on merits are noted to the limited extent to find out whether in that background the public interest would suffer.

20. The learned Senior Counsel for the appellant in order to impress upon this

Court the principle relating to consideration of "sufficient cause" for condonation of delay and the factors that are required to be kept in view, has relied on the decision in *LAO v. Katiji* [*LAO v. Katiji*, (1987) 2 SCC 107] wherein it is held as hereunder : (SCC pp. 108-09, para 3)

"3. The legislature has conferred the power to condone delay by enacting Section 5 [Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.] of the Limitation Act, 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on "merits". The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice—that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realised that:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.
4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.
5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.
6. It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the "State" which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and

the law is administered in an even-handed manner. There is no warrant for according a step-motherly treatment when the "State" is the applicant praying for condonation of delay. In fact experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community, does not deserve a litigant-nongrata status. The courts therefore have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression "sufficient cause". So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even-handed justice on merits in preference to the approach which scuttles a decision on merits. Turning to the facts of the matter giving rise to the present appeal, we are satisfied that sufficient cause exists for the delay. The order of the High Court dismissing the appeal before it as time-barred, is therefore, set aside. Delay is condoned. And the matter is remitted to the High Court. The High Court will now dispose of the appeal on merits after affording reasonable opportunity of hearing to both the sides."

(emphasis in original)

21. Further the decision in *Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur* [*Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur*, (1992) 2 SCC 598] is relied upon, wherein this Court has indicated the real test to determine the delay is that the petitioner should come to Court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence.

22. The learned Senior Counsel for Respondent 13, on the other hand, has relied upon the decision in *Postmaster General v. Living Media (India) Ltd.* [*Postmaster General v. Living Media (India) Ltd.*, (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] wherein it is held as hereunder : (SCC p. 574, paras 28-29)

"28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. 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.

29. 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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

23. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party, namely, the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even-handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the courts based on the fact situation. In *Katiji [LAO v. Katiji, (1987) 2 SCC 107]* the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight of is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800%.

24. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public body. The entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified.

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31. In the matter of condonation of delay and laches, the well-accepted position

is also that the accrued right of the opposite party cannot be lightly dealt with. In that regard, rather than taking note of the hardship that would be caused to Respondent 13 as contended by the learned Senior Counsel, what is necessary to be taken note of is the manner in which Respondent 11, DMRC has proceeded in the matter. Respondent 11, DMRC is engaged in providing the public transport and for the said purpose the Government through policy decision has granted approval to generate resources through property development and in that regard the development as earlier indicated, is taken up. Pursuant thereto Respondent 11 has received a sum of Rs 218.20 crores from Respondent 13 as far back as in the year 2008. The said amount as indicated is used for its projects providing metro rail service to the commuting public. In such circumstance, if at this stage the inordinate delay is condoned unmindful of the lackadaisical manner in which the appellant has proceeded in the matter, it would also be contrary to public interest”.

3.8. Similarly reliance was placed in the decision in Civil Appeal No.4440/2008 (Arising out of SLP (C) No.6111 of 2006, Perumon Bhagvathy Devaswom, Perinadu Village vs. Bhargavi Amma (Dead) by Lrs. & Ors.

4. Placing reliance on the aforesaid decisions, learned counsel appearing for the Respondents contended that since while filing the appeal with delay of more than 3544 days, no cause lest sufficient cause has been explained with regard to delay for the period from 06.02.2010 to 9. 01.2018, the delay in filing of the appeal is not to be condoned. Not only that the delay for the period from 09.01.2018 to 25.11.2019 has also not been properly explained by citing sufficient cause, save and except explain the official procedures.

5. Having heard learned counsel for the Parties and after going through the materials placed before this Court, this Court finds that the claim raised by the respondent in GIA Case No.34 of 2006 was allowed by the Tribunal vide its judgment dtd.06.02.2010. The appeal against such an order was filed before this Court on 23.12.2019. But it is found that no explanation has been given by assigning any cause lest sufficient cause with regard to the delay starting from 06.02.2010 to 09.01.2018 and the reason for being informed about the judgment after around 8 (eight) years. The delay w.e.f. 10.01.2018 to 25.11.2019 has also not been explained properly by citing sufficient cause save and except citing official procedures. Since no reason has been assigned by assigning any cause lest sufficient cause with regard to the delay for the period from 06.02.2010 to 09.01.2018 and sufficient cause for the period from 10.01.2018 to 25.11.2019, this Court placing reliance on the decisions so cited by the learned counsel for the Respondent is not inclined to condone the delay in filing of the appeal. Accordingly, the I.A stands dismissed.

FAO No.1000 of 2019

1. Since this Court is not inclined to condone the delay in filing the appeal, the appeal is accordingly dismissed.

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