
(2002) 01 AHC CK 0098
In the Allahabad High Court
Case No : Special Appeal No. 271 of 2001

State of U.P. and Others

APPELLANT

Vs

Hari Shankar Dubey

RESPONDENT

Date of Decision : 18-01-2002

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2002) 1 AWC 553 : (2002) 1 UPLBEC 790

Hon'ble Judges : S.K. Sen, C.J;R.K. Agarwal, J

Bench : Division Bench

Advocate : S.C. and S.K. Mehrotra, for the Appellant; V.K. Shukla, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Sen, C.J.—We have heard Sri S.K. Mehrotra, learned standing counsel for the State Applicants and Sri V.K. Shukla, learned advocate for the respondent-writ petitioner on the delay condonation petition.

2. This is an application for condonation of delay of 225 days in preferring special appeal against the order passed by the learned single Judge allowing the writ petition. The order was passed in the writ petition on 28th August, 2000. No material has been disclosed nor any fact has been alleged on the basis of which we can come forward to give any aid to the State Government to condone the delay. The order was passed on 28th August, 2000 and the limitation for filing the special appeal expired on 27th September, 2000. The only fact, disclosed in the delay condonation petition, is that permission was sought from the State Law Department on 14th March, 2001. What is the reason for seeking such permission after such a long time has also not been disclosed. It also appears that the Law Department granted permission on 11th April, 2001, after one month. No reason has been disclosed as to why the Law Department took one month's time for granting permission. Thereafter other formalities were complied with by the State and the papers were made ready and ultimately the appeal was

filed on 28th April, 2001. Apart from the aforesaid dates on which the applicant-State Government relied upon, we do not find any other material coming out in the application filed u/s 5 of the Limitation Act for condoning the delay in preferring the appeal. This discloses a very sad state of affairs on the basis of which litigation is conducted by the State Government in the State. It is well-settled that when a proceeding is barred by limitation, valuable rights accrue in favour of the other party. Under such circumstances, without having any material before us on the basis of which we can grant any relief to the applicant, we cannot ignore the right of the respondent-writ petitioner. In that view of the matter, there is no other alternative for us but to dismiss the application of the applicant-State Government. In view of the above facts and circumstances of the case, we feel that because of the sad state of affairs of the State Government, the valuable rights of the public at large should not be suffered. In that view of the matter, we most reluctantly direct that the order passed in this matter may be brought to the notice of the Chief Minister of the State, who may pass appropriate direction so that litigations may be conducted in proper manner. As learned standing counsel submits, the Additional L.R. who is posted at Allahabad High Court is directed to communicate this order to the Chief Minister of the State forthwith.

3. It is true that the application filed u/s 5 of the Limitation Act is to be liberally construed but such interpretation on construing liberally has to be made on the basis of the materials disclosed. If no material is disclosed, it is not possible to construe the petition liberally because very valuable rights of the other party are involved and the same cannot be ignored.

4. In the above facts and circumstances of the case, the application filed u/s 5 of the Limitation Act is dismissed with the aforesaid observations.

5. Since the delay condonation petition has been dismissed, the special appeal itself stands dismissed and the same need not be registered and shall be taken out of the file of this Court.