
(2001) 12 AHC CK 0082
In the Allahabad High Court
Case No : Special Appeal No. 443 of 2001

State of U.P. and Others

APPELLANT

Vs

Jai Prakash Singh and Others

RESPONDENT

Date of Decision : 04-12-2001

Acts Referred:

Allahabad High Court Rules, 1952 — Rule 10
Limitation Act, 1963 — Section 5

Citation : (2003) 2 UPLBEC 1329

Hon'ble Judges : G.P. Mathur, Acting C.J.; Ashok Bhushan, J

Bench : Division Bench

Advocate : Ranvijai Singh, for the Appellant; H.N. Singh, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mathur, A.C.J. and Ashok Bhushan, J.—We have heard Sri Ranvijai Singh, learned Standing Counsel for the appellants, Sri H.N. Singh for the contesting respondents and have perused the affidavits.

2. According to Office report there is delay of six years thirty days in filing the appeal. It is averred in the affidavit that that the impugned order of the learned Single Judge was passed on 28.5.1995 without any counter affidavit having been filed as notice of the writ petition was not served on the department. After coming to know of the impugned order a recall application duly supported with an affidavit, was filed on 2nd April, 1996. Thereafter, an application for early listing of the recall application was filed on 8th May, 2000. However, as fee writ petitioner filed a contempt petition, the present Special Appeal has been filed. Sri H.N. Singh has submitted that there is inordinate delay in filing the appeal and every day's delay has not been explained. In our opinion., in the facts and circumstances of the case, the delay in filing the appeal deserves to be condoned. In G. Ramegowda v. The Special Land Acquisition Officer, Bangalore, AIR 1988 Supreme Court 897, it has been held that the expression "sufficient cause" occurring in Section 3 must receive a liberal construction so as to

advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of the delay. In *State of Haryana Vs. Chandra Mani and others*, it has been held that the State stands on different footing and where the State is seeking condonation of delay a technical view should not be taken. In *State of Bihar and Others Vs. Kameshwar Prasad Singh and Another*, delay of 679 days was condoned and it was held that the technicalities of law cannot prevent the Courts from doing substantial justice and undo illegalities. Having given our careful consideration to the submission made by the learned Counsel for the parties and the material on record, we are of the opinion that the delay in filing the appeal has been satisfactorily explained.

3. The application is accordingly allowed and the delay in filing the appeal is condoned.