

(2014) 07 MP CK 0098
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 622/2014

The State of Madhya Pradesh

APPELLANT

Vs

Ranjana Yogi

RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:

Citation : (2014) 4 MPHT 161 : (2014) 4 MPLJ 1

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

Bench : Division Bench

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

Final Decision : Dismissed

Judgement

1. Heard on IA No. 3889/2014, an application seeking condonation of delay in filing the appeal.

2. The delay is of 696 days.

3. This intra court appeal is directed against the order dated 16.05.2012 passed by the learned Single Judge of this Court in Writ Petition No. 2095/2012(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.

4. Challenging the said order, which was passed on 16.05.2012, 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 16.05.2012 passed in WP No. 2095/2012(s) (Annexure A/1) by Hon''ble Single Judge whereby the petition preferred by the petitioner has been allowed.

It is most humbly submitted that the Writ Appeal is being filed beyond the 695 days of limitation for which explanation is being given as under:

2. That the order was passed on 16.05.2012 and the copy of the order was received in the office of OIC on 05.09.2013 after receiving the certified copy of the order, the Officer in charge of the case written a letter to the Government Advocate on 29.10.2013 for obtaining opinion and the Government Advocate had given opinion vide his letter dated 18.11.2013. The Officer in charge of the case sent letter on 23.12.2013 to the Higher Authority for necessary action. Thereafter Law Department has given permission to file appeal vide Memo dated 17.01.2014 which was received by OIC vide letter dated 22.01.2014 in the office on 01.02.2014. That after receiving the permission from 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 after summer vacation same is being filed without any further delay.

3. It is most humbly submitted that the delay of 695 day has been cause 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.

5. 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. There is absolutely no explanation for the period January, 2014 to 11.07.2014, when the appeal was filed.

6. The recent decision of the Supreme Court in 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.

7. 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, .

8. 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.

9. Consequently, application (IA No. 3889/2014) deserves to be and is hereby dismissed.

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