

IN THE COURT OF SH. VIMAL KUMAR YADAV  
PRINCIPAL DISTRICT & SESSIONS JUDGE, NORTH  
DISTRICT, ROHINI COURTS, DELHI.

CNR No. DLNT01-006550-2020

PPA No. 13/2020

**Delhi State Industrial & Infrastructure  
Development Corporation Ltd.**

.....Applicant/Appellant

Vs.

**M/s Kallu Ram Jain, Jai Kumar Jain,  
Rattan Kumar Jakhodia**

.....Respondent

Date of hearing arguments : 15.09.2022  
Date of order : 15.09.2022

**ORDER**

The application moved by the applicant/appellant under provisions of Section 5 of the Limitation Act through which the applicant/appellant has sought condonation of delay in the filing the present appeal, is hereby disposed of through this order.

It is contended that the delay of about 3½ months in filing the appeal is there, whereas the time prescribed is 12 days. The prime focus of arguments is on the appellant being an impersonal entity/organization (Govt) where a single decision requires to pass through various bureaucratic stages and that obviously cause delay. Verily, the counsel for the appellant himself admitted about the bureaucratic wrangles and red-tapism. To hammer this point that delay is not deliberate or international but due to the official procedure and formalities further

comprehended by the pandemic raging the world. Since no prejudice is caused to anyone/respondent, therefore, with the aid of above contentions and in the light of the judgments relied upon it is sought that delay may be condoned and appeal may be heard on merits to have the issue decided comprehensively on merits, instead of technicalities of limitation. Liberal, pragmatic and furthering the ends justice approach while interpreting and implementing Section 5 Limitation Act should be there.

Learned Counsel for the respondent, on the other hand, has submitted that there is a callous delay in filing the present appeal and the period of limitation is well known to the officials of DSIIDC/appellant. In such circumstances, when this limitation is more or less exclusively for the DSIIDC matters, therefore, the appellant/its officials should have been more careful and vigilant. Merely saying that the bureaucratic process has taken time and, therefore, the delay should be condoned or that the pandemic was there which prevented quick processing of the case, are all sham and have been put forth to scrape through situation where the appellant has landed.

Evidently, taking into account the contentions raised by the rival sides, record, especially the copy of file notings together with the law on the subject, the issue in hand with regard to the condonation of delay is to be decided.

As far as the law of limitation is concerned, it has been interpreted by the various fora very liberally and objectively and the focus has been on the comprehensive adjudication of the disputes rather than going into the strict procedural technicalities.

Learned Counsel for the appellant has placed reliance on the Judgment in “*State of Haryana vs. Chandra Mani &*

**Ors., AIR 1996 SC 1623**”, where three Judges Bench of Hon’ble Supreme Court of India has extensively dealt with the law of limitation and interpreted Section 5 of the Limitation Act taking all relevant factors into consideration and the Judgments on the subject including the fact that the law of limitation does not make any distinction between a private party or a government body. The bureaucratic and procedural delays are not required to be given any undue weightage and also emphasized that the focus of the Courts should be on its prime duty of adjudication of disputes on merits, taking into account all the aforesaid aspects, inter alia, the facts and it was observed by the Hon’ble Supreme Court in the following words :-

*It is notorious and common knowledge that delay in more than 60 per cent of the cases filed in this Court - be it by private party or the State - are barred by limitation and this Court generally adopts liberal approach in condonation of delay finding somewhat sufficient cause to decide the appeal on merits. It is equally common knowledge that litigants including the State are accorded the same treatment and the law is administered in an even-handed manner. When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay intentional or otherwise - is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals*

*brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the Governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The Court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-a-vis private litigant could be laid to prove strict standards of sufficient cause".*

Moreover, similar views have been expressed in ***"Ram Nath Sao @ Ram Nath Sahu & Ors. vs. Gobardhan Sao & Ors., (2002) 1 BLJR 794"*** and in ***"New India Insurance Co. Ltd. vs. Shanti Misra, AIR 1976 SC 237"***.

To explain the delay, the appellant has also placed on record the copies of file notings. Incidentally, the things seem to have started late in itself inasmuch as the impugned order was passed on 14.11.2019 and the first noting, copy of which is placed on record, is that of 27.01.2020, although the Executive Director, realizing, it seems, that the limitation is important aspect, has noted that the advise should be obtained quickly. Nevertheless, the initiation of the process of taking a decision to file an appeal or not itself was initiated quiet late, even if it is presumed that the copy was obtained by the appellant somewhere around 15/16.12.2019. However, one thing is common that in all the subsequent notings, the Executive Director or the senior officers of the appellant were emphasizing

that the legal opinion should be obtained quickly or the appeal should be filed immediately, which indicates that they realized that urgency in the matter is involved. Unfortunately, it still took about eight months to decide that an appeal is to be filed along with the application for condonation of delay. As the final date on the noting sheet where a decision has been taken to file an appeal and condonation of delay application is of 06.07.2020, therefore, delay, apparently, is too much. As per the applicant/appellant, a total of 111 days' delay is there and each and every days' delay is not required to be strictly explained but reasonable explanation should come. The appellant cannot fall back on the shield of the Government Department, but one aspect is there where a Government Department is able to carve out a soft corner inasmuch as an individual has one or two cases whereas a Government Department has multiple cases that too where no personal involvement of the employee is there that, unfortunately, persuades, directly or indirectly, lose the urgency in the matter or a kind of complicity is found although they may feel that the urgency is there but then matching steps are not taken and if taken, then expected results are difficult to come by.

However, given the fact that the prime purpose of the entire mechanism of administration of justice is to adjudicate the disputes in a comprehensive and objective manner and with a view to uphold the truth and justice. Therefore, it has been observed in various pronouncements that the procedural laws are only to facilitate and not to frustrate the course of justice whereas the substantive law is what is required to be enforced strictly. The law of limitation is one such law where the provisions are there in order to give a kind of finality to the disputes. If no

limitation is placed then anybody may come at any time and that way a dispute would remain open unless, of course, reaches to the stage of Hon'ble Supreme Court and get decided from there. Thus, limitation is an important aspect but then it should not be used to limit the rights of the parties to have a crippled justice or incomplete justice. Additionally, a very unprecedented factor, which is placed for consideration is the pandemic, which has created its trepidation all over the world where people were more rather solely, concerned with their and then loved one's lives and well being and all other things had taken a back seat. The position was rather more severe in the second wave but then this is a case where first wave is relevant. Needless to say, the fear was very much there so was the cases even at that time when the lockdown was enforce in the country w.e.f. the last week of March 2020, but before reaching that stage of complete lockdown, there were cases and symptoms of approaching catastrophe and people were in state of panic.

If the entire gamut of facts and circumstances is taken into consideration, then it appears that the delay is there but then this delay does not seems to be such which should deprive the appellant from having an adjudication based on merits.

As has been discussed herein above, the law of limitation has been interpreted liberally so as to reach to a proper adjudication rather than getting trapped into the procedural road blocks.

It has been observed in “*State of Haryana vs. Chandra Mani & Ors. (Supra)*”, that :

*The Government at appropriate level should constitute legal cells to examine the cases whether*

*any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers take a decision or give appropriate permission for settlement. In the event of decision to file appeal needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while State is an impersonal machinery working through its officers or servants. Considered from this perspective, it must be held that the delay of 109 days in this case has been explained and that it is a fit case for condonation of the delay.*

Therefore, in view of the facts and circumstance discussed herein above, the appellant deserves a chance to have an exhaustive legal remedy and as such, the application seeking condonation of delay in filing the present appeal, is condoned and the application is allowed subject to imposition of the cost of Rs. 5000/- (Rupees five thousand only), 50% of which amount shall be deposited with the DLSA, North District, Rohini, Delhi, and 50% cost amount shall be paid to the respondent by the appellant herein. The application under reference is disposed of accordingly.

However, before parting, I could not resist the temptation to say that the period of limitation of 12 days provided in the DSIIDC matters in itself is very improper and one can make out that it is not easy to file an appeal within this period of limitation by even the DSIIDC and for that matter even by a private party. It appears to be a kind of uptill task to comply with

the law of limitation as provided in the instant case.

The appellant is directed to submit the receipt of the payment to be made to DLSA, North District, Rohini, Delhi, on or before the next date of hearing. With this, the present application stands disposed of.

Announced in the open Court  
on 15.09.2022

(VIMAL KUMAR YADAV)  
Principal Distt. & Sessions Judge (North)  
Rohini Courts, Delhi