

**State of Bihar and ors. Vs. Madan Mohan Prasad and ors.**

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**Court :** Patna

**Decided On :** Sep-25-1998

**Judge :** B.M. Lal, C.J. and S.K. Singh, J.

**Appeal No. :** L.P.A. No. 590 of 1998

**Appellant :** State of Bihar and ors.

**Respondent :** Madan Mohan Prasad and ors.

**Disposition :** Appeal Dismissed

**Prior history :** B.M. Lal, C.J. 1. The present application under Section 5 of the Limitation Act has been filed for condoning the delay of 679 days in preferring the Letters Patent Appeal. 2. The impugned judgment was passed on 6th May, 1996 by the learned Writ Court and the present appeal has been filed on 15.5.98. 3. The contention of learned Counsel for the appellant is that the writ application was disposed of by order dated 6th May, 1996 along with other analogous writ applications. The present appeal has

**Judgement :**

B.M. Lal, C.J.

1. The present application under Section 5 of the Limitation Act has been filed for condoning the delay of 679 days in preferring the Letters Patent Appeal.

2. The impugned judgment was passed on 6th May, 1996 by the learned Writ Court and the present appeal has been filed on 15.5.98.
3. The contention of learned Counsel for the appellant is that the writ application was disposed of by order dated 6th May, 1996 along with other analogous writ applications. The present appeal has been preferred on 15.5.98. A Letters Patent Appeal is to be preferred within 30 days from passing of the impugned judgment. If the said period of 30 days is deducted still the present appeal is barred by 679 days.
4. In the present application for condoning the delay it has been stated that initially the State Government took a view that the order of the writ Court should be complied with. Subsequent thereto Screening Committee was constituted and the list of the petitioners in all the analogous applications was prepared. The same was sent before the Screening Committee but as the same required reviewing report submitted by the earlier Screening Committee, as such, a decision was taken that another Screening Committee should be constituted whose members should be higher in rank than those of the earlier Screening Committee. In this way time was consumed in constituting one screening committee after another screening committee. Subsequent thereto, it has been stated that the file was endorsed to the Minister In-charge of the department with the recommendation of the screening committee and after the endorsement of the concerned Minister, the same was placed for consideration before another screening committee. In this way time was consumed in the department itself in moving the file from one table to another table and from one official to another official. It has further been stated that when a draft was prepared and produced before the Director he by verbal order directed that the cases of other 350 retrenched employees should also be placed before the screening committee for consideration. In this way more time was consumed. However, when the final draft was prepared and after endorsement from the officials at different levels the same was sent to the Law Secretary and after its approval on the advice of the Chief Secretary, the file was sent to the Finance Secretary for his opinion. The Finance Secretary also granted his approval regarding taking back the writ petitioners into service and further directed that responsibility be fixed on the persons who were responsible for not

complying with the Court's order passed in the writ applications. The said draft was approved by the Chief Minister and Minister in-charge. However, on 24.7.97 the file was again referred by the Secretary of the concerned department to the Law Secretary who asked him to recall his discussion that the A.A.G. III who has advised to file an appeal and subsequent thereto decision regarding filing the appeal was taken. Thereafter, on 11.8.97 the file was sent to the department by the Law Secretary for filing the appeal. Though a decision regarding filing of appeal had been taken on 11.8.97 still the appeal has been filed on 15.5.98 no explanation whatsoever for inordinate delay in filing the appeal from endorsement of the records from the law department to the department concerned has been furnished.

5. We also fail to understand that if a decision had to be taken for filing any appeal, the same should have been taken at the earliest stage. In the present case when from all the levels including the level of Chief Minister the matter was cleared and the same was also cleared by the screening committee, why at the last moment a decision has been taken to prefer the appeal. The learned Counsel for the respondents suggested that the same has only been filed as a counter blast as the writ petitioners had already moved this Court by filing a contempt application. If the said assertion is true and the present L.P.A. has been filed only as a counter blast to save themselves from contempt and is based on non-application of mind, such an action and that too on the part of State requires to be deprecated.

6. The short question which is required to be considered is whether sufficient cause or good cause has been shown for condoning the inordinate delay of 679 days.

7. Though 'sufficient cause' or 'good cause' is not defined under Section 2 of the Limitation Act but all the same it means and so far has been construed as beyond the control of the parties seeking indulgence for extension of period of limitation. From a bare perusal of Section 5 of the Limitation Act and its preamble, it is manifest that the Limitation Act is an exhaustive Code governing the law of limitation in respect of matters specially dealt with by it. That is why the law of limitation is a panacea to prevent the disturbance or deprivation of what may have

been acquired in equity and justice or what may have been lost by parties own inaction, negligence or laches. In *Maqbul Ahmad and Ors. v. Onkar Narain Singh and Ors.* A.I.R. 1935 P.C. 85. It is held that the Courts are not permitted to travel beyond the provisions of the Act or to supplement them. It is also held that Court cannot grant exemption from limitation on equitable consideration or on the ground of hardship.

8. Thus, the object of the law of limitation is well known that interest of the State requires that there should be an end of the litigation. In *Boota Mal v. Union of India* : [1963]1SCR70 , it has been held that equitable considerations are out of place and the strict grammatical meaning of the words is the only safe guide in interpreting the statute of limitation. Therefore, the statute of limitation like other statutes ought to receive such construction as the language in plain meaning imports.

9. As has already been stated above, in the present case after receipt of the copy of the judgment a decision has already been taken for implementing the said order. However, subsequently, when the same has already been endorsed and approved from the highest level, i.e., the Chief Minister, the Minister in-charge and the Secretary of the Department as well as the Law Department, a decision has been taken to file the appeal. What weighed previously before the Government in the decision to implement the judgment and subsequently after consuming such a long time when the draft has already been approved at the highest level why a subsequent decision has been taken to file the appeal has not been stated. Even after taking the decision of filing the appeals, the same have been filed after 9 months, which has not been explained at all. Whether such action of the appellants can be termed as reasonably diligent in prosecuting the appeal. If indulgence is shown in such cases the very purpose and object of the Limitation Act, discussed above, will be frustrated. That is why in the *State of Haryana v. Chandra Mani and Ors.* : 2002(143)ELT249(SC) , the Apex Court has relied upon the decision in the case of *Ramlal v. Rewa Coalfields Ltd.* : [1962]2SCR762 , which lays down that each day's delay is to be explained satisfactorily, which the appellants have not explained in the present case.

10. In *Union of India and Ors. v. Tata Yodogawa Ltd. and Anr.* S.L.P. (Civil) No. 3772-73 of 1987, reported in 1989 PLJR (S.C.) 5, the Apex Court has laid down that delay said to be on account of correspondence, processing and routing through sections of the department is not sufficient cause to condone the delay.

11. It is irony of fate that in this State the officers of the State and its instrumentalities carry an impression that in each and every case the delay caused in filing the appeal is bound to be condoned taking it granted on the basis of a few decisions wherein the delay has been condoned considering the facts of those cases where sufficient cause and good cause were shown and proved.

12. In the present case as no good or sufficient cause has been shown explaining the day to day delay and in view of the judgment in the case of *Union of India and Ors. v. Tata Yodogawa Ltd. and Anr.* (supra), as the delay in moving the file from one section to another and from one table to another cannot be a sufficient or good cause to extend the period of limitation, the petition for condoning the delay is rejected. Consequently, the appeal is also dismissed being barred by limitation.

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