

State of U.P. and ors. Vs. Jai Prakash Singh and ors.

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SooperKanoon Citation : sooperkanoon.com/487016

Court : Allahabad

Decided On : Dec-04-2001

Reported in : (2003)2UPLBEC1329

Judge : G.P. Mathur, A.C.J. and ;Ashok Bhushan, J.

Acts : [Limitation Act, 1963](#) - Sections 5; Rules of Court (Allahabad High Court), 1952 - Rule 10

Appeal No. : Special Appeal No. 443 of 2001

Appellant : State of U.P. and ors.

Respondent : Jai Prakash Singh and ors.

Advocate for Def. : H.N. Singh, Adv.

Advocate for Pet/Ap. : Ranvijai Singh, Adv.

Disposition : Application allowed

Judgement :

G.P. Mathur, A.C.J. and Ashok Bhushan, J.

1. 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 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 v. Chandra Mani and Ors.*, AIR 1996 Supreme Court 1623, 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 Ors. v. Kameshwar Prasad Singh and Anr.*, JT 2000 (5) SC 389, 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.