

**Narmada Valley Development Authority Vs. Narmada Construction**

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**Court :** Madhya Pradesh

**Decided On :** Nov-13-2006

**Reported in :** 2007(2)ARBLR494(MP); 2007(2)MPHT342; 2007(1)MPLJ347

**Judge :** S.K. Kulshrestha and; S.K. Seth, JJ.

**Appellant :** Narmada Valley Development Authority

**Respondent :** Narmada Construction

**Disposition :** Application dismissed

**Judgement :**

ORDER

1. Heard.

2. This revision has been filed under Section 19 of the M.P. Madhyasthan Adhikaran Adhiniyam, 1983 after 123 days of the expiry of the limitation. The State has filed an application under Section 5 of the Limitation Act [M (C) P. No. 3232/2001] to seek condonation. Reply has been filed by the respondents. Learned Counsel for the applicant has placed great reliance on the amendment made in Section 19 in August, 2005. Learned Counsel for applicant submits that now, since the provision itself confers power to condone the delay, since the Court is considering the application after the amendment, the delay can be condoned under the said provision.

3. The Civil Revision was filed in 2001 and admittedly, at that time, there was no provision in Section 19 of the M.P. Madhyastham Adhikaran Adhiniyam providing for condonation of delay. In Nagar Palika Parishad, Morena v. Agrawal construction Co. 2003(2) Weekly Note 152, it was held by this Court that Section 19 does not permit or empower condonation of delay and, therefore, if the revision under Section 19 is not filed within time prescribed therefor, the revision is not maintainable. This case was considered by the Supreme Court in Nagar Palika Parishad, Morena v. Agrawal Construction Co. 2004 (11) MPJR 374 and approved. Later, in a Full Bench judgment in M.P. Electricity Board v. Pandey Construction Co. 2005 (2) MPLJ 550, Section 19 of M.P. Madhyastham Adhikaran Adhiniyam was considered in the context of Section 5 of the Limitation Act read with Section 29(2) thereof and it was held that revision application under Section 19 filed by an aggrieved party beyond the period of three months was barred and the delay cannot be condoned in such cases.

4. This revision is of the year 2001 when this Court had no power to grant condonation of delay or extension of time. Thus, apparently, the amendment in the statute under Section 19 providing for condonation of delay was subsequent and does not appear to apply retrospectively. Unless there is specific provision to apply a particular law retrospectively or the same can be applied, if there appears intendment that the provision can be applied this Court that Section 19 does not permit or empower condonation of delay and, therefore, if the revision under Section 19 is not filed within time prescribed therefor, the revision is not maintainable. This case was considered by the Supreme Court in Nagar Palika Parishad, Morena v. Agrawal Construction Co. 2004 (11) MPJR 374 and approved. Later, in a Full Bench judgment in M.P. Electricity Board v. Pandey Construction Co. 2005(2) MPLJ 550, Section 19 of M.P. Madhyastham Adhikaran Adhiniyam was considered in the context of Section 5 of the Limitation Act read with Section 29(2) thereof and it was held that revision application under Section 19 filed by an aggrieved party beyond the period of three months was barred and the delay cannot be condoned in such cases.

5. This revision is of the year 2001 when this Court had no power to grant condonation of delay or extension of time. Thus, apparently, the amendment in the

statute under Section 19 providing for condonation of delay was subsequent and does not appear to apply retrospectively. Unless there is specific provision to apply a particular law retrospectively or the same can be applied, if there appears intendment that the provision can be applied retrospectively, we are unable to agree with the learned Addl. Advocate General that the said amendment should be given effect retrospectively when the matter is being considered after the amendment. In this view of the matter, we find that the revision was barred by 123 days and despite amendment in Section 19 in the year 2005 providing for condonation of delay, the delay caused in filing the revision in the year 2001 cannot be condoned. Accordingly, the application for condonation of delay is dismissed. Consequently, this revision fails.

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