

**The State of Raj. and ors. Vs. Sukhdev Singh**

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**Court :** Rajasthan

**Decided On :** Jul-23-1996

**Reported in :** 1996(3)WLC544; 1996(1)WLN530

**Judge :** P.P. Naolekar, J.

**Appeal No. :** S.B. C.S.A. No. 507 of 1996

**Appellant :** The State of Raj. and ors.

**Respondent :** Sukhdev Singh

**Disposition :** Appeal dismissed

**Judgement :**

**P.P. Naolekar, J.**

1. Heard. The office has pointed out that the appeal is barred by limitation by 63 days. Application Under Section 5 Limitation Act has been moved for condonation of delay occurred in filing the appeal. It is stated in the application that the second appeal has been filed against the judgment and decree granted by the lower appellate court on 7.10.95 after obtaining the certified copies of the judgment and decree dated 7.10.95 and 3.3.94 (passed by the trial court). The same were sent to the Development Department for according sanction. However, the sanction was received late and as soon as the sanction was received, the appeal has been

filed in the Court. This is all the explanation for the delay. The application is supported by the affidavit of the officer-in-charge Vikas Adhikari, Panchayat Samiti Marwar Junction.

2. There is nothing on record as to when the certified copies obtained were sent to the Department and as to why the sanction could not be accorded within a reasonable time. There is also nothing on record to indicate as to when the sanction was granted and when the papers were sent to the concerned Department for filing an appeal and as to why the papers were not immediately processed after sanction was granted. It is not shown to this Court that the appeal could not be presented within the period of limitation inspite of due reasonable steps were taken in the matter. The counsel for the appellant has relied upon a decision reported in *State of Haryana v. Chandra Mani and Ors.* : 2002(143)ELT249(SC) and has contended that a pragmatic approach may be taken in the matter while considering the procedural delay caused in the Govt. Department as a usual feature.

3. It is settled law that if an appeal is not presented within the period of limitation, it creates a right in favour of respondent and, therefore, when that right is subjected to be negated, it should be based on reasonable grounds. A party seeking condonation of delay in filing appeal beyond the period of limitation must satisfy the Court that there was sufficient cause for not preferring the appeal within the period of limitation. In that regard, must differentiation would not be made between the Govt. or a private party. Considering the variety of activities Govt. is engaged and the ultimate sufferer on account of Dismissal of appeal being the public, there may be difference of degree of proof required by the Govt. and the private party to establish sufficient, cause but that would not or cannot relieve the Govt. from alleging and proving sufficient cause for delay. The Govt. is not required to give reasons for each day's delay but has to allege and prove overall cause for the entire period. The Govt. cannot get over the delay simply because it is Govt. Bonafide steps taken by the officer of the Govt. in filing the appeal is if stalled by the procedural rigmarole, inter departmental wrangling or time taken for decision making would constitute a sufficient cause for condonation of delay. But if there is utter lack of sense of responsibility, dereliction of duty, failure to decide priorities

and deliberate inaction on the part of the Govt. servant, procedural delays could not be a ground for condonation of delay. In such a case, Govt. would be well advised to take proper steps against the erring officer but that would not constitute a sufficient cause. In the present case, there is complete lack of material particulars as to why the delay has been caused. A bald statement that there was delay in granting sanction would not constitute a ground for condonation of delay.

4. As no sufficient cause is made out explaining the delay, the application Under Section 5 of the Limitation Act is dismissed. Consequently, the appeal also fails as barred by limitation.

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