

LUCKNOW DEVELOPMENT AUTHORITY V. VISHESHWAR PRASAD

LUCKNOW DEVELOPMENT AUTHORITY

NAVEEN BHAWAN, VIPIN KHAND, GOMTI NAGAR,

LUCKNOW

LUCKNOW

UTTAR PRADESH

.....Petitioner(s)

Versus

VISHESHWAR PRASAD

H.NO. II/81/D, SLEEPER GROUND RAILWAY COLONY,

POST ALAMBAGH

LUCKNOW

UTTAR PRADESH

.....Respondent(s)

Case No: **REVISION PETITION NO. 1761 OF 2023**

Date of Judgement: 03.10.2023

Judges:

HON'BLE AVM J. RAJENDRA, AVSM VSM (Retd.), PRESIDING MEMBER

FOR THE PETITIONER :

1. UPENDRA NARAYAN MISHRA, ADVOCATE
2. C. PRASAD MISHRA, ADVOCATE

Facts:

Revision petition filed with delay of 384 days against order dated 08.04.2022 of State Commission. Petitioner sought condonation of delay stating that delay occurred due to departmental procedures in moving files. Order was received on 29.04.2022, so even by this date there was 363 days delay.

Court's Opinions:

As per Consumer Protection Rules, revision petition to be filed within 90 days of receiving certified copy of order. 'Sufficient cause' means party should not have acted negligently or without bona fide. Petitioner must show it was prevented by sufficient cause. Merely stating delay occurred in government departmental procedures is not a satisfactory explanation. Petitioner failed to explain delay for each day as required. The reasons given are routine and do not justify such huge delay.

Arguments:

Petitioner:

Delay occurred due to inherent departmental procedures in government office. Delay is natural in moving files from one table to another. Delay neither deliberate nor intentional. Delay may be condoned.

Order:

Petitioner has failed to show sufficient cause for delay of 363 days even from order receipt date. The application for condonation of delay is disallowed. Consequently, the revision petition is dismissed.

Sections and Laws Referred:

Consumer Protection (Consumer Commission Procedure) Regulations, 2020 – Regulation 14.

Referred Judgments:

Ram Lal and Ors vs Rewa Coalfields Ltd; RB Ramlingam vs RB Bhavaneshwari; Anshul Aggarwal vs New Okhla Industrial Development Authority ;Basawaraj and Ors Vs The Special Land Acquisition Officer ;Anil Kumar Sharma vs United India Insurance Co. Ltd ;Lingeswaran vs Thirunagalingam

Download

Court

Copy:

<https://dreamlaw.in/wp-content/uploads/2023/12/download5.pdf>

Full Text of Judgment:

1. As per the record of the Registry, there is a delay of 384 days in filing of this Revision Petition. The petitioner filed IA No. 9497 of 2023 seeking condonation of delay for 383 days. As per the said IA, the impugned order was passed on 08.04.2022. Thereafter, the concerned Advocate perused the documents/ records and final judgment and submitted his report to the Chief Legal Advisor of the Petitioner for further decision. The Chief Legal Advisor perused the impugned order and the report submitted and recommended for filing the instant Revision Petition. Thereafter on 09.12.2022, the panel counsel of the Lucknow Development Authority, Mr. UN Mishra, learned Advocate was assigned to file the Revision Petition and all related documents were forwarded on 07.01.2023 for drafting and filing of the same. Since several documents were in Hindi the same were translated, and the petition was drafted and forwarded to the department for approval. After approval of the petition, the affidavits were signed and attested by the authorized representative in Delhi on 16.07.2023.

2. The learned counsel for the petitioner argued that the delay occurred in filing of the present revision petition due to inherent Departmental procedures. According to him the delay is natural, because in Government Office some formalities are required to be completed in moving the file from one table to another because of which the same is delayed. If the delay occurred due to departmental proceedings

that keeping in view of the compendious of decision in which prima facie several types of errors are noticeable. The learned counsel forcefully argued that the delay in filing of the Revision Petition is neither deliberate nor intentional, but because of the above-mentioned reasons and sought condoned of 384 days of delay.

3. As regards period of limitation for filing of a Revision Petition, Regulation 14 of the CP (Consumer Commission Procedure) Regulations, 2020 *inter alia* stipulate that:

“Subject to the provisions of sections 40, 41, 50, 51, 60, 67 and 69, the period of limitation in the following matters shall be as follows:-

1. ***Revision Petition shall be filed within ninety days from the date of receipt of certified copy of the order...”***

4. Therefore, the present revision petition was to be filed within 90 days of the receipt of the order of the learned State Commission. From the perusal of records, it is clear that the impugned order was pronounced on **08.04.2022** and the order was received on **29.04.2022**, the present revision was filed on **26.07.2023** and its admitted position that, there has been a delay of 384 days in filing of the present Revision Petition.

5. Hon’ble Supreme Court in ***“Ram Lal and Ors. vs. Rewa Coalfields Limited, AIR 1962 Supreme Court 361”***, has observed as under:

“It is, however, necessary to emphasize that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a discretionary jurisdiction vested in the Court by S.5. If sufficient cause is not proved nothing further has to be done; the application for condonation has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire

whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant."

6. The test which is to be applied while dealing with such a case is whether the petitioner acted with reasonable diligence. Hon'ble Supreme Court in **"RB Ramlingam vs. RB Bhavaneshwari, I (2009) (2) Scale 108"** has held:

"We hold that in each and every case the Court has to examine whether delay in filing the special appeal leave petitions stands properly explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the prosecution of his appeal/petition."

7. Hon'ble Supreme Court in **"Anshul Aggarwal vs. New Okhla Industrial Development Authority, (2011) 14 SCC 578"** has also observed as under:-

"while deciding the application filed, for condonation of delay, the Court has to keep in mind that the special periods of limitation have been prescribed under the Consumer Protection Act, for filing appeals and revisions in consumer matters and that the object of expeditious adjudication of the consumer disputes will get defeated, if the highly belated appeals and revision petitions are entertained".

8. To condone such delay in filing, the Petitioner has to satisfy this Commission that there was sufficient cause for preferring the revision after the stipulated period. The term 'sufficient cause' has been explained by the Apex Court in **Basawaraj and Ors. Vs. The Spl. Land Acquisition Officer AIR**

2014 SC 746 where it was held that:-

"9. Sufficient cause is the cause for which Defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory application is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose."

9. In **Anil Kumar Sharma vs. United Indian Insurance Co. Ltd. & Ors** reported in **IV(2015)CPJ453(NC)**, the NCDRC held:-

"12..... we are not satisfied with the cause shown to justify the delay of 590/601 days. Day to day delay has not been explained. Hon'ble Supreme Court in a recent judgment of Anshul Aggawal vs. New Okhla Industrial Development Authority, IV (2011) CPJ 63 (SC) has held that while deciding the application filed for condonation of delay, the Court has to keep in mind that special period of limitation has been prescribed under the Consumer Protection Act, 1986, for filing appeals and revisions in consumer matters and the object of

expeditious adjudication of the consumer disputes, will get defeated if the appeals and revisions, which are highly belated are entertained.”

10. The Hon'ble Supreme Court in **Lingeswaran Etc. Vs Thirunagalingam** in **Special Leave to Appeal(C) Nos. 2054-2055/2022** decided on **25.02.2022** has held that:-

*“5. We are in complete agreement with the view taken by the High Court. **Once it was found even by the learned trial Court that delay has not been properly explained and even there are no merits in the application for condonation of delay, thereafter, the matter should rest there and the condonation of delay application was required to be dismissed. The approach adopted by the learned trial court that, even after finding that, in absence of any material evidence it cannot be said that the delay has been explained and that there are no merits in the application, still to condone the delay would be giving a premium to a person who fails to explain the delay and who is guilty of delay and laches.** At this stage, the decision of this Court in the case of *Popat Bahiru Goverdhane vs. Land Acquisition Officer*, reported in (2013) 10 SCC 765 is required to be referred to. In the said decision, it is observed and held that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same.”*

11. From the above orders of the Hon'ble Apex Court, it is clear that **'sufficient cause'** means that the party should not have acted in a negligent manner or there was a want of *bona fide* on its part and that the applicant must satisfy that he was prevented by any “sufficient cause” from prosecuting its case. Unless a satisfactory explanation is furnished, a Court should not normally allow the application for condonation of

delay under this Act.

12. Now, examination of the material on record and forceful arguments advanced by the learned Counsel, it is clear the impugned order in the case was passed on 08.04.2022 and the period of limitation, therefore started from the date of order and had lapsed on 07.07.2022. The reasons stated for the delay was that the petitioner forwarded the records to the concerned advocate. Thereafter, the advocate submitted the report to the Chief Legal Advisor for decision. The Chief Legal Advisor perused the same and recommended for filing the Revision Petition. And on 09.12.2022 the panel counsel of Lucknow Development Authority, Mr. UN Mishra was assigned. By then over 5 months had already lapsed. Thereafter, the records were forwarded to the advocate for drafting and filing of the Revision Petition on 07.01.2023. As there were several documents in Hindi language, these were translated, and petition was drafted and forwarded for approval. After the approval of the petition the affidavits were signed and attested in Delhi on 16.07.2023. It was asserted that the delay of about one year in filing the Revision Petition was due to inherent to departmental office procedures which are to be completed in moving file from one table to another. The delay of 384 days occasioned was neither intentional or due to negligence on the part of the Petitioners. The same may be condoned.

13. Even if it is considered that the impugned order was passed on 08.04.2022 and they received a copy on 29.04.2022 as mentioned in the proforma for revision petition, there was delay of 363 days. In these circumstances also, the Petitioner was reasonably expected to file the Revision Petition within the stipulated limitation period i.e. by 28.07.2022. While there is delay of 363 days in filing the present petition, no sufficient cause has been brought out. The petitioner failed to explain or show sufficient reason for delay of each day as required under the law. In the instant case, the cause shown

for delay that the issue pertains to the delay in entirely departmental proceeding is insufficient. It is a matter of record that this is third layer of litigation of the same matter and thus all facts and records are readily available. Translation of records from Hindi to English is a routine process which takes limited time, which is obviously provisioned for within the period of 90 days provided. There is no apparent justification for such undue and protracted delay in taking necessary action in the matter. The reasons explained are routine in nature which does not reflect that the Petitioner had taken due cognizance of the orders of the learned State Commission and acted in time as necessary under law.

14. With due regard to the statutory provisions, precedents discussed above and the facts of the case, the applicant/petitioner has failed to show any sufficient cause for such protracted and undue delay in filing the present petition. Therefore, the prayer in application filed by the petitioner seeking condonation of delay cannot be granted and accordingly, the same is disallowed on the above grounds.

15. In view of the foregoing, the IA No. 9497 of 2023 filed by the Petitioner is disallowed. Consequently, the Revision Petition No.1761 of 2023 is dismissed.

16. All other pending Applications, if any, stand disposed of. There shall be no order as to costs.