

ITEM NO.3 Court 9 (Video Conferencing) SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 19846/2020

(Arising out of impugned final judgment and order dated 19-12-2018 in LPA No. 98/2003 07-05-2002 in CWP No. 1915/2000 passed by the High Court Of Delhi At New Delhi)

UNION OF INDIA

Petitioner(s)

VERSUS

CENTRAL TIBETAN SCHOOLS ADMIN & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.7332/2021-CONDONATION OF DELAY IN FILING and IA No.7333/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date :04-02-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Vikramjit Banerjee, ASG
 Mr. P.V. Yogeswaran, Adv.
 Mr. Nachiketa Joshi, Adv.
 Mr. Gurmeet Singh Makker, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The approach of the Union of India in the manner it has filed the present special leave petition exasperates us as all earlier counsel appears to have been thrown in the dustbin!

A writ petition was filed in the year 2000, raising a question of parity in the pay-scale of the

employees of the Central Tibetan School Administration and that writ petition came to be allowed by the learned Single Judge in terms of an order dated 07.05.2002. The appellant-Union of India aggrieved by the said order preferred a Letters Patent Appeal (LPA), which was dismissed for non-prosecution on 15.12.2008. The Union of India decided to wake up and preferred an application seeking restoration of the LPA in the year 2016 seeking condonation of delay of 2590 days. This application was dismissed by the impugned order dated 19.12.2018 by the detailed order. The Division Bench recorded that the only ground which was urged was that the counsel appearing in the matter has been elevated as a Judge of the High Court and the Department was not aware about the "peculiar circumstance". The High Court thus while referring to the judicial view of this Court, *inter alia*, in the matter of *Office of the Chief Post Master General & Ors. vs. Living Media India Ltd. & Anr.* - (2012) 3 SCC 563 and *Balwant Singh (Dead) vs. Jagdish Singh & Ors.*- AIR 2010 SC 3043 opined that the appellant cannot be compared to an illiterate litigant.

The present special leave petitions have been preferred also after delay of 532 days and 6616 days

from the original order.

We have heard learned Additional Solicitor General for some time and must note that the only error which seems to have occurred in the impugned order is of noticing that it is not an illiterate litigant because the manner in which the Government is prosecuting its appeal reflects nothing better! The mighty Government of India is manned with large legal department having numerous officers and Advocates. The excuse given for the delay is, to say the least, preposterous.

We have repeatedly being counselling through our orders various Government departments, State Governments and other public authorities that they must learn to file appeals in time and set their house in order so far as the legal department is concerned, more so as technology assists them. This appears to be falling on deaf ears despite costs having been imposed in number of matters with the direction to recover it from the officers responsible for the delay as we are of the view that these officers must be made accountable. It has not had any salutary effect and that the present matter should have been brought up, really takes the cake!

The aforesaid itself shows the casual manner

in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the Statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgment in the *State of Madhya Pradesh & Ors. v. Bheru Lal* [SLP [C] Diary No.9217/2020 decided on 15.10.2020] and *The State of Odisha & Ors. v. Sunanda Mahakuda* [SLP [C] Diary No.22605/2020 decided on 11.01.2021]. The leeway which was given to the Government/public authorities on account of innate inefficiencies was the result of certain orders of this Court which came at a time when technology had not advanced and thus, greater indulgence was shown. This position is no more prevalent and the current legal position has been elucidated by the judgment of this Court in *Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr.* - (2012) 3 SCC 563. Despite this, there seems to be a little change in the approach of the Government and public authorities.

We have also categorized such kind of cases as "*certificate cases*" filed with the only object to obtain a *quietus* from the Supreme Court on the ground that nothing could be done because the highest Court has dismissed the appeal. The objective is to complete a mere formality and save the skin of the officers who may be in default in following the due process or may have done it deliberately. We have deprecated such practice and process and we do so again. We refuse to grant such certificates and if the Government/public authorities suffer losses, it is time when concerned officers responsible for the same, bear the consequences. The irony, emphasized by us repeatedly, is that no action is ever taken against the officers and if the Court pushes it, some mild warning is all that happens.

Looking to the gross negligence and the impunity with which the Union of India had approached this Court in a matter like this, we consider it appropriate to impose special costs of Rs.1 lakh in this case to be recovered from the concerned officer(s), to be deposited with the Supreme Court Advocates on Record Welfare Fund within four weeks.

The special leave petitions are dismissed as

time barred in terms aforesaid.

Pending application stands disposed of.

A copy of this order be placed before the Law Secretary, Govt. of India and Secretary, Ministry of Human Resource Development to look into the matter personally not only making them accountable for compliance but also to ensure that we are not faced with such matters in future.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[ANITA RANI AHUJA]
ASSISTANT REGISTRAR