

State of Rajasthan and Another

Vs

Jaimal

I.A. No. 1 of 1991

(N. M. Kasliwal, M. N. Venkatachaliah JJ)

09.05.1991

ORDER

1. There is a delay of 1467 days in filing this special leave petition. The explanation is far from satisfactory and is unacceptable.

2. The explanation for this long delay is that papers had been transferred from Bikaner to Ganganagar. The application for condonation of delay proceeds to aver :

"It is respectfully submitted that some matters were however left out and the Advocate-on-Record for the State received instruction and vakalatnama to file special leave petition in those 22 cases including present case."

"... The delay has been by reasons of shifting of the Department and records from Bikaner to Ganganagar."

"It is further submitted that the officer incharge took some time in collecting the addresses of the respondent in the individual cases."

3. It is admitted that in all other cases SLPs were filed in time. This kind of general statements of misplacing papers have, of late, become a common feature in government appeals. Government departments are comfortably, if not generously, staffed and the officers are paid sumptuously out of public funds. The least that is expected of them when they deal with matters involving substantial stakes for the government is to act with utmost care, diligence and despatch. This kind of vague averments about misplacing of files and of procedural and administrative delays in the context of the fact that the period of limitation is quite known, becomes un-understandable.

4. It would have been a different thing if government comes forward with a case that its officials had acted negligently or at cross-purposes with the interest of government and initiated appropriate action against the erring officials and applied for consideration of the prayer for condonation of delay on the ground that the acts and omissions of such official would affect public interest. When appeals by the State are lost for default on account of the inaction of the officials, nobody individually suffers but, in the ultimate analysis, it is the public interest that suffers in all such cases. It is appropriate for the government and, indeed, its duty in cases of such inordinate delays to examine whether the public interest has suffered as a result of the negligent or motivated actions or omissions on the part of its officials. But in cases, as here, where the government owns the responsibility for the delay caused by its officials and tries to sell their explanation to the court without examining whether the acts and omissions of the officials were due to negligence or mala

fides, then government runs the risk of sharing the blame and responsibility for the resultant pejorative effect on public interest.

5. We find not justification to condone the inordinate delay in filing this special leave petition. The application for condonation of delay is dismissed. Consequently, the special leave petition stands dismissed as barred by time.

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