THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE B.R.MADHUSUDHAN RAO

I.A.No.1 OF 2025
IN/AND
COMCA No.1 of 2025

Sri Shyam S.Agrawal, learned counsel for the appellant.

Mr. Ashish Kale, learned counsel representing Ms. Sneha Bhogle, learned counsel for the respondent No.1.

COMMON ORDER: *(Per Hon'ble. Justice Moushumi Bhattacharya)*

1. The petitioner/appellant, M/s. Telangana State Industrial Development Corporation Limited, has challenged the impugned order and decree passed by the learned Commercial Court dated 16.02.2023, whereby the appellant's Commercial Original Petition (C.O.P.No.38 of 2016) filed under section 31(1)(a) and (aa) of The State Financial Corporations Act, 1951, for a decree against the respondents for an amount of Rs.1,30,31,000/- with interest @ 17.5% per annum, was dismissed.

2. The present Appeal was filed on 26.12.2024 along with an application (I.A.No.1 of 2025) for condonation of a delay of 514 days in filing the Appeal. The parties have filed their respective

affidavits in the I.A. The respondents have strongly objected to the condonation of delay.

3. We have heard learned counsel appearing for the petitioner/appellant and learned counsel appearing for the respondent No.1 in support of their submissions and considered the case law cited on behalf of the parties.

4. The petitioner/appellant has filed two affidavits in support of the application for condonation of delay. The second affidavit is described as an 'Additional Affidavit' for supplementing the reasons stated in the first affidavit. The reasons for the condonation of delay are set out from paragraph 25 of the first affidavit. The relevant dates mentioned are as follows.

5. The petitioner states that after passing of the impugned order on 16.02.2023, the petitioner applied for a Certified Copy of the said order and decree on 22.02.2023 and the Certified Copy was furnished to the petitioner on 07.06.2023. Upon receiving the copy of the order, the petitioner's Law Officer prepared a note and submitted it to the 'Higher Officials' for taking a decision and necessary action. However, the immediate higher official, the

Deputy General Manager of the petitioner '*took long time to go through and understand the impugned order and after sometime, he had placed it before the Managing Director of the petitioner'*. Elections were declared in the State of Telangana, during which '*all the officials were busy and no instructions were coming for the decisions to be taken in regard to legal matters and the issue of the present case was lying pending'*. By the time normal work resumed after the State Elections, the Union Elections had commenced and '*again there was no progress in the work including the issue of the present case'*. Paragraph 26 of the affidavit further states that even after the Union Elections, '*it took some time for normal work to get resumed...... However, the file of the present case got mixed up in the numerous files that were pending for circulation...... and hence no decision was taken as the file itself was got mixed up and went missing*'.

6. Paragraph 27 of the affidavit states that it was only in November, 2024 that the petitioner realized that '*the decision in regard to the impugned order had not yet been taken'* and that the matter was pending. This came to light when the respondent No.1 approached the petitioner for return of the original Title Deeds of

the schedule property. The petitioner gave instructions to put up the file *'but the same was not being traced and it was realized that the file was missing'*. The petitioner thereafter gave instructions to trace the file and place it before the higher officials. It is further stated that *'after a long search and with great difficulty, the file could be traced out in the second week of December, 2024'.* The petitioner immediately held discussions with counsel and a decision was taken to file an Appeal before the High Court. The Appeal was thereafter prepared and filed.

7. The 'Additional Affidavit' reiterates the dates of the Elections which were mentioned in the first affidavit. The petitioner states that the schedule for the Elections to the Telangana State Legislative Assembly was announced on 09.10.2023 and the Elections were held on 30.11.2023. The employees of the petitioner-Corporation, being a State Government company, were assigned official duties for conducting elections and therefore, could not '*concentrate on the issue relating to filing of the present Appeal and obtaining necessary instructions'* since they were engaged in election related work. Paragraph 6 of the Additional Affidavit states that the Election Commission of India had

announced the schedule for the General Elections on 16.03.2024, and the polling in the State of Telangana was held on 13.05.2024. The petitioner's employees were entrusted with election duties and *'they were completely involved therein'.* The petitioner further states that *'in view of such disturbances in work due to successive elections, immediate action for filing of the appeal could not be taken up'.* Paragraph 7 states that following the change of the Government, three Vice Chairmen and Managing Directors took charge in quick succession at the petitioner-Corporation, which further contributed to the delay in filing the Appeal.

8. The statements made in the two affidavits filed in support of the application for condonation of delay in filing of the Appeal have been reproduced verbatim in the preceding paragraphs. The extracts in italics are reproduced from the two affidavits.

9. The dates mentioned in the two affidavits contain several unexplained time-gaps. The impugned order was passed on 16.02.2023 and the application for a Certified Copy thereof was made on 22.02.2023. Although the Certified Copy was made ready on 07.06.2023, the next date mentioned in the Additional Affidavit

is 09.10.2023 (the announcement of the schedule for the Telangana Legislative Assembly Elections), followed by the conduct of the Elections on 30.11.2023.

10. The petitioner has not explained the lapse of four months between 07.06.2023 and 09.10.2023. The second unexplained gap is from 30.11.2023 (the date of the Legislative Assembly elections) to 13.05.2024 (polling date for the General Elections in the State of Telangana). There is no explanation for the intervening period of six months from November, 2023 to May, 2024.

11. Apart from the gaps in the timeline, the reasons stated for the delay are as follows:

(i) The Deputy General Manager of the petitioner took a long time to go through and understand the impugned order;

(ii) All the officials of the petitioner-Corporation were busy with the election duties;

(iii) No instructions were issued to the officials regarding the legal matters;

(iv) The file of the present case was mixed up with the other files; and

(v) The file was ultimately lost.

12. It is evident from paragraph 27 of the first Affidavit that the respondent No.1 demanding return of the original Title Deeds of the schedule property triggered the petitioner’s realization that no decision had been taken with regard to the impugned order and that the file was untraceable. Therefore, from 13.05.2024 to November, 2024 i.e., for six months the petitioner took no steps to challenge the impugned order dated 16.02.2023. The petitioner admits that the file was located after a considerable delay. The Appeal was filed in the second week of December, 2024. No other specific dates are mentioned in the two affidavits.

13. Section 13 of The Commercial Courts Act, 2015 relates to filing of appeals from decrees of Commercial Courts and Commercial Divisions. Section 13(1A) provides that any person aggrieved by the judgment or order of a Commercial Court or from a Commercial Division of a High Court may file an appeal to the

Commercial Appellate Division of the High Court within a period of sixty days from the date of the judgment or order.

14. The appellant has filed the present Appeal under the provisions of The Commercial Courts Act, 2015 from the order of the Commercial Court along with an application for condonation of delay of 514 days. The reasons stated in the two affidavits filed along with the application for condonation of delay have been narrated in the foregoing paragraphs.

15. The first question is whether the Court should invoke its discretionary powers to condone the delay.

16. The appellant entirely relies on section 5 of The Limitation Act, 1963 which allows filing of an appeal or any application beyond the prescribed period of time subject to the Court being satisfied of the sufficiency of cause shown by the appellant or applicant for the delay. The burden of proving the sufficiency of cause lies with the appellant or applicant.

17. In *Government of Maharashtra (Water Resources Department) Vs. Borse Brothers Engineers and Contractors Private Limited*[1], the Supreme Court considered the applicable timeframe under section 37 of The Arbitration and Conciliation Act, 1996 which provides for appeals from specified orders. Section 37 of the 1996 Act does not specify a timeframe for filing of appeals. The Supreme Court concluded that any delay beyond 90 days, 30 days or 60 days (under Articles 116, 117 of The Limitation Act, 1963 and section 13(1A) of The Commercial Courts Act, 2015 respectively) for filing of an appeal under section 37 of the 1996 Act should be condoned by way of exception and not by way of rule. Besides, in *Borse Brothers,* there was a delay of 131 days beyond the 60 days period provided for filing of an appeal under section 13(1A) of The Commercial Courts Act, 2015. The Supreme Court found that the delay had not been explained with sufficient *bona fides* and accordingly proceeded to dismiss the appeal.

18. It is now settled that section 5 of The Limitation Act, 1963 would apply to appeals filed under section 13(1A) of The Commercial Courts Act, 2015: *Borse Brothers;* also refer to a recent

[1] (2021) 6 SCC 460

decision of the Supreme Court in *Jharkhand Urja Utpadan Nigam Ltd., Vs. M/s. Bharat Heavy Electricals Limited*[2].

19. However, in *Borse Brothers,* the Supreme Court made it clear that the limitation beyond 60 days cannot be stretched to unreasonable limits so as to defeat the object of The Commercial Courts Act, 2015, wherein the Legislature made a conscious choice of capping the timeline. The delay of 514 days is not being castigated here for its length, but for the appellant's failure to account for the delay in the manner mandated under section 5 of The Limitation Act, 1963. Although, extension of the period of limitation beyond the prescribed timeframe is a matter of public policy, 'sufficient cause' cannot serve as a convenient excuse to wipe out unexplained delays in pursuing stale claims.

20. Since section 5 of The Limitation Act, 1963 applies to the present Commercial Court Appeal, the next question is whether the appellant has satisfied the requirement of showing sufficient cause. In this regard, the appellant cannot take refuge in the fact of it being a Government Company. A discussion on this aspect follows in the next paragraph.

[2] 2025 SCC OnLine SC 910

21. The facts before us are in stark contrast, both in degree and depth, to those in *Borse Brothers.* As opposed to the delay of 131 days in *Borse Brothers,* the present appeal is set behind by 514 days. The only similarity with *Borse Brothers* is that the appellant before the Supreme Court was the Government of Maharashtra (Water Resources Department). In the present case, the appellant is M/s. Telangana State Industrial Development Corporation Limited (formerly Andhra Pradesh State Industrial Development Corporation Ltd.).

22. A State Corporation/Government Department cannot be put on a pedestal with privileged timelines which would be evident from the underlying objective of special statutes which contemplate fixed timelines. These Acts are entity-neutral in terms of limitation periods. There is little doubt that the objective of a special statute like The Commercial Courts Act, 2015 is to ensure speedy resolution of high-value commercial disputes, without any exceptions. The focus is on quick resolution which includes Government entities when they are parties to commercial disputes.

23. Moreover, the logic of Government employees being oblivious of timelines is totally misplaced. Government departments are expected to be staffed with competent persons who are familiar with Court proceedings especially in times when modern technology aiding quick filings and communication is readily available. The Law of Limitation binds everybody, including the Government: *Postmaster General Vs. Living Media India Limited*[3]. The Government or a wing of the Government enjoys the same perks and suffers the same pitfalls as a private entity in commercial transactions; which begs the question whether the Government can create and take shelter under a parallel timeline in a fixed-period statute like The Commercial Courts Act, 2015 ?

24. None of the judgments cited on behalf of the appellant deal with the specific limitation period prescribed under The Commercial Courts Act, 2015. *Collector Land Acquisition Officer, Anantnag Vs. Katiji*[4]. *N. Balakrishnan Vs. M.Krishnamurthy*[5] and a more recent judgment of the Supreme Court in *Mool Chandra Vs.*

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[3] (2012) 3 SCC 563
[4] (1987) 2 SCC 107
[5] (1998) 7 SCC 123

Union of India[6] deal with the requirement of showing sufficiency of cause under section 5 of The Limitation Act, 1963. In *N.Balakrishna* (supra), the Supreme Court dealt with the need to advance substantial justice where the delay on the part of the litigant was not deliberate or caused by *mala fides.* Similarly, in *Mool Chandra* (supra) the Supreme Court found from the specific facts of that case that there was no negligence attributable on the part of the appellant. *Sheo Raj Singh Vs. Union of India*[7] agreed with the view taken by the High Court in condoning the delay on the part of the Union of India on the ground of proper exercise of discretion. The Supreme Court relied on *State of Manipur Vs. Koting Lamkang*[8] to hold that the impersonal nature of State-functioning should be given due regard. *Sheo Raj Singh* however involved the issue of compensation payable to the landowner and was not under a special statute with rigorous timelines, namely, The Commercial Courts Act, 2015.

25. Exercise of discretion under section 5 of The Limitation Act, 1963 empowers the Court to entertain an appeal or application

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[6] AIR 2024 SC 4046
[7] (2023) 10 SCC 531
[8] (2019) 10 SCC 408

beyond the prescribed period of limitation subject to the Court being satisfied of the sufficiency of cause shown by the applicant/appellant. The cause shown must be such that the overarching requirement to advance the cause of substantial justice outweighs the appellant's shortfall in filing the appeal within the prescribed period of limitation. 'Sufficient' cause must reflect a sense of purpose and a willingness to restore diligence. The reasons shown cannot be slipshod or nonchalant so as to demand condonation as a matter of entitlement. It must be borne in mind that delay may have created equity in favour of another in the interregnum.

26. As stated in the foregoing paragraphs, the appellant only gives sporadic dates which randomly pop-up in a timeline from February, 2023 to December, 2024. There is no attempt to explain or account for the long blanks in-between these dates.

27. It is of crucial relevance that in paragraph 7 of the additional affidavit, one of the reasons mentioned by the appellant for the delay is that there were three Vice-Chairmen and the Managing Directors who took charge of the appellant corporation in quick

successions. There are no dates mentioned with regard to the date on which the Vice Chairmen and the Managing Directors assumed charge. Counsel appearing for the respondent has however produced G.O.Rt.No.54, dated 11.01.2024 which shows that Dr.E.Vishnu Vardhan Reddy was placed in the post of Vice Chairman, Managing Director, and Executive Director of the appellant Corporation on and from 11.01.2024. There was no change in the position of Vice Chairman/Managing Director of the appellant from 11.01.2024 till the date of filing of the appeal i.e., on 26.12.2024.

28. It is of additional significance that one of the grounds for passing the impugned order was whether the appellant's claim was barred by limitation. The Commercial Court after considering the facts, answered the issue against the appellant and in favour of the respondent No.1. Thus, it is all the more difficult to accept that the appellant would slip into a slumber for 514 days after having suffered an order, *inter alia*, on the ground of delay.

29. We hence do not find any reason, satisfactory or otherwise, in condoning the delay of 514 days in filing the Commercial Court Appeal.

30. I.A.No.1 of 2025 is accordingly dismissed for the reasons stated above. Consequently, COMCA.No.1 of 2025 stands rejected. There shall be no order as to costs.

MOUSHUMI BHATTACHARYA, J

B.R.MADHUSUDHAN RAO, J

Date: 25.07.2025
va/bms