

**COURT-II**  
**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
**(Appellate Jurisdiction)**

**ORDER ON IA NO. 1085 OF 2018**

**IN**  
**DFR NO. 2307 OF 2018**

**Dated : 14<sup>th</sup> December, 2018**

**Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member**  
**Hon'ble Mr. S.D. Dubey, Technical Member**

**In the matter of:**

**Punjab Energy Development Agency (PEDA) Ltd.**  
**Through its Executive Director Sh. Balour Singh,**  
**Plot No. 1-2, Sector 33-D, Chandigarh-160034**

**....Appellant(s)**

**Vs.**

- 1. Punjab State Electricity Regulatory Commission,**  
**Through its Secretary**  
**S.C.O. 220-221, Sector 34-A,**  
**Chandigarh - 160022**
- 2. Oasis Green Energy Private Limited**  
**Through its Chairman**  
**5139/3. Modern Housing Complex, Manimajra,**  
**Chandigarh, Punjab – 160101**
- 3. Punjab State Power Corporation Limited (PSPCL),**  
**Through its Chairman-cum-Managing Director,**  
**Having its office at the Mall, Patiala,**  
**Punjab - 147001**
- 4. Punjab State Transmission Corporation Limited**  
**Through its Chairman-cum-Managing Director,**  
**Having its registered office at PSEB Head Office**  
**The Mal, Patiala – 147001**

**....Respondent(s)**

**Counsel for the Appellant (s) : Mr. Aadil Singh Boparai,**  
**Mr. Gurlabh Singh, Advocates for Appellant**  
**Mr. Sunil Chodhary, Manager, PEDA**

**Counsel for the Respondent(s) : Mr. Avinash Menon, for R-1**  
**Mr. Neeraj Kumar Jain, Sr. Advocate**  
**Mr. Aniket Jain, Advocate for R-2**  
**Ms. Parichita Chowdhary, for**  
**Mr. Anand K. Ganesan, for R-3**

**ORDER**

**PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER**

1. The instant Application has been filed alongwith the present Appeal for condoning the delay in filing the Appeal for a period of 461 days on account of administrative reasons and processing of file at multiple levels of the Appellant/Applicant organization contending that the final decision to prefer the Appeal before this Tribunal was taken on 6.10.2017. The Counsel was engaged vide letter dated 17.10.2017, The learned counsel in turn wrote to the Appellant/Applicant organization on 20.10.2017 seeking necessary relevant documents / files in the matter to enable him to draft the Appeal for filing before this Tribunal. The documents / files were received by the Counsel within a week time thereafter. Certain Annexure had to be additionally procured from Chandigarh. The Draft of the present Appeal was sent by the Counsel of the Appellant/Applicant by e-mail on 26.12.2017 for approval. The final approval to the Draft has been accorded by the Appellant/Applicant to the Counsel in the last week of April, 2018. The delay has been caused on account of administrative and multiple approval at different levels of the Appellant/Applicant organization. The Appellant/Applicant had good case on merits and likely to succeed in the present Appeal. The balance of convenience is in favour of the Appellant/Applicant and the interest of justice will suffer if the present Application is not allowed. Therefore, he prayed to condone the delay of 461 days in filing the Appeal.

2. To substantiate the case to condone the delay in filing the Appeal for 461 days, the Appellant/Applicant has filed an additional affidavit dated 26.8.2018 for explaining the delay in filing the Appeal, contending that the concerned section office

of the Appellant/Applicant herein upon receipt of the said impugned order perused the same to be able to understand the contours of the Order passed by the State Regulatory Commission. Accordingly, the impugned order alongwith papers were put up before the concerned officers for their perusal and consideration. The said process was undertaken expeditiously but on account of several procedural levels with the Appellant/Applicant department, and despite its best efforts could only be completed by early June, 2017. Further, he contended that as part of the routine maintenance work before the monsoon season, the Appellant/Applicant undertook an exercise involving reorganizing of its files in the storage rooms to avoid any damage to the files owing to dampness and moisture during the monsoon period. While undertaking the said exercise of re-arranging the files, the staff of the Appellant/Applicant organization inadvertently and without any mala fide tied up the file containing the paper book / Court case records of the impugned proceedings alongwith some other office files in the record room. Despite the best efforts of the staff, the paper book of the impugned proceedings in the present matter could not be located owing to the inadvertent error as stated hereinabove for over 3 and a half months. The said paper-book / court record in the impugned proceedings could only be traced while perusing another file along with which the paper book of the impugned matter was inadvertently tied up. Thereafter, immediately, the files were processed and decision was taken on 6.10.2017 to prefer an appeal before this Tribunal. The counsel appearing for the Appellant/Applicant was engaged vide communication dated 17.10.2017. The counsel for the Appellant / Applicant wrote to the Department on 20.10.2017 seeking the relevant documents / files with regard to the matter enabling him to draft an appeal for filing before this Tribunal. Certain additional documents/annexure were required by the counsel and were sent to the counsel by 20.11.2017. Thereafter the Counsel circulated the first draft of the

proposed appeal to be filed before this Tribunal for the Appellant's/Applicant's comments and clarification on 26.11.2017. After going through the draft forwarded by the counsel for the Appellant/Applicant to the Appellant/Applicant Department/Organisation, they in turn suggested certain changes qua the facts in the first Draft to the Counsel and provided additional annexures as sought by the counsel for the purposes of finalizing the present appeal. In this context, it may be noted that the additional document sought by the counsel was the order dated 26.2.2016 passed by the Ld. Civil Judge, Jr. Division, Budhlada. The said annexures along with the suggested changes was sent to the Appellant/Applicant in the first week of March, 2018. The final draft was examined at several levels within the Appellant/Applicant organization. The nature of procedural approvals from different levels within the organisation peculiar to a Government department undertook some time and the final approval was obtained from the competent authority to proceed with the filing of the appeal before this Tribunal in the last week of May, 2018. The counsel thereafter gave the voluminous annexures to be filed along with the present appeal for typing and the same could be collected only in the last week of June, 2018 owing to the ensuing summer break in the Courts at New Delhi. In the meanwhile, the Appellant/Applicant undertook the task mandated by law of preparing a back draft along with the present appeal. The said draft was issued by the Appellant's/Applicant's bank on 25.06.2018 and the same was forwarded to the counsel of the Appellant/Applicant at New Delhi. The Appeal was filed thereafter with utmost alacrity and without any further delay.

3. Therefore, it is respectfully submitted that the delay has occasioned given the requirement of multiple procedural approvals within a Government organization. Therefore, the said delay is neither intentional and the same is bonafide in nature

and the Appellant/Applicant being the Government organization / statutory authority, the Court should take lenient view and condone the delay in filing the Appeal on the ground that the Appellant/Applicant has got a good case on merits and most probably is likely to succeed in the Appeal.

4. The learned Counsel has filed a Rejoinder on behalf of the Appellant/Applicant in response to the reply filed by the Respondent to the Application seeking condonation of delay in filing the Appeal contending that the delay in filing of the accompanying appeal was primarily on account of approvals at multiple levels within the Appellant/Applicant organization, shortage of staff to pursue several cases pending adjudication before the State Regulatory Commission, District Courts, Hon'ble Punjab and Haryana High Court and before this Tribunal and the inadvertent misplacement of the court file due to the renovation at the record room at the Appellant/Applicant Office. The Appellant / Applicant organization is a multi-layered nodal agency for the purposes of promotion of renewable energy within the State of Punjab. The file is required to be approved at multiple levels within the organization before a formal decision is taken. This entails inevitable delay given the State machinery peculiar to a Government department. In anticipation of the monsoons, renovation work was being carried out in the record room of the Appellant/Applicant organization and the files were moved to enable the renovation at the site. During this process, the Court file was inadvertently tied up with the file of another case. When the competent authority of the appellant/applicant organization took decision to file the appeal against the impugned order, the office attempted to locate the said file to prepare a note for filing the appeal. But, however, despite of best efforts, the file could not be traced. The efforts were made to get copies of the said documents from the advocate appearing the State Regulatory

Commission, but the same were not available with the advocate. The file was traced by the office on 26.9.2017 while perusing the Court record of another matter and thereafter the files were processed expeditiously by the office and a decision was taken on 6.10.2017 by the Executive Director to prefer an appeal before this Tribunal. And in para 6 to 11, he reiterated the same what was stated in preceding paragraphs.

5. To substantiate his submissions, the learned counsel appearing for the Appellant, Shri Aadil Singh Boparai, vehemently contended and submitted that it is worthwhile to state that the Hon'ble Supreme Court in the case of State of Nagaland vs. Lipok Ao and Others reported in (2005) 3 SCC 752 had held that, "It is axiomatic that decisions are taken by officers/agencies proverbially at a slow pace and encumbered process of pushing the files from table to table and keeping it on the table for considerable time causing delay – intentional or otherwise – is a routine. Considerable delay of procedural red tape in the process of their decisions making is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person individually affected but what in the ultimate analysis suffers is public interest. The expression "sufficient cause" should therefore be considered with pragmatism in a justice oriented approach rather than the technical detection of sufficient cause for explaining every day's delay." Further, he placed another reliance on Judgment of the Supreme Court in (1996) 3 SCC 132 as held in para 11 thereof.

6. Further, he vehemently submitted that given the impersonal machinery of the State and the bureaucratic methodology, the approval process in a Government department entails procedural approvals at several levels. However, in view of the fact that the State represents the collective cause of the community, a certain

degree of latitude is humbly prayed in view of the important proposition of law involved in the present appeal.

The delay in filing the appeal is bona fide, occurred due to the inadvertent misplacement of the file and the requirement of seeking approvals at several levels peculiar to a Govt organization. The Appellant/Applicant organization is pursuing several cases before the Punjab State Electricity Commission, District Courts, Hon'ble Punjab & Haryana High Court and this Tribunal and the delay has also occasioned due to the paucity of the staff. The present appellant/applicant rejected the grounds averred by the Respondents in their replies as furthest from the truth and reflects their ignorance with regard to the bureaucratic methodologies peculiar to the State. Therefore, he submitted that taking into consideration the totality of the case, the delay has been explained satisfactorily and sufficient cause has been shown in the light of the Judgments of the Apex Court, the delay in filing may kindly be condoned and the instant Appeal may heard on merits in the interest of justice and equity.

7. **Per Contra**, the learned counsel appearing for the Respondent No. 1, Shri Avinash Menon, has filed a detailed reply for strongly opposing the condonation of delay in filing the Appeal and at the outset submitted that the Appeal filed by the Appellant/Applicant alongwith the Additional Affidavit thereto, seeking condonation of delay in belatedly filing the accompanying Appeal against the impugned Order dated 14.2.2017 passed by the PSERC, Chandigarh in Petition No. 17 of 2016 after an unexplained delay of 461 days is not bonafide and an abuse of the process of the Court and therefore, the same is liable to be dismissed with exemplary costs.

8. The counsel appearing for the Respondent no. 1 contended that the Appellant/Applicant herein was fully aware of the impugned Order of the State Regulatory Commission dated 14.02.2017 from the time when the Order was passed. A signed copy of the said Order was sent by hand to the Appellant vide a letter no. PSERC/Reg/6943-46 dated 14.02.2017 and the same was received by the Appellant on 15.02.2017. A copy of the relevant portion of the acknowledgement book is annexed hereto and marked as **Annexure:R-1**. Further, the order was also available on website of the Respondent No. 1 State Regulatory Commission. the

Appellant/Applicant neither exhibited any urgency to comply with the directions passed by the State Commission vide the impugned Order dated 14.02.2017 regarding release of remaining Performance Bank Guarantee within seven working days from the date of the said Order nor did it prefer an appeal diligently before this Tribunal and seek appropriate relief within the period of limitation. The State Regulatory Commission in exercise of its quasi judicial powers adjudicated the dispute between the parties and issued appropriate directions. In the absence of any order to the contrary passed by this Hon'ble Tribunal, all such directions ought to be complied with in letter and spirit, without default or delay, as per timeline stipulated in the impugned order. It is an admitted fact that the Appellant/Applicant has utterly failed to act in terms of the above, its conduct is not bonafide and the delay ought not to be condoned as the Appellant/Applicant has disabled itself from any equitable relief. It is well settled that delay defeats equity. It is well settled that court helps those who are vigilant and do not slumber over their rights. The Appellant/Applicant has among others, given the explanation for the delay of 461 days from the date of expiry of limitation. Each of these reasons rather than placing genuine and bonafide circumstances of sufficient cause which prevented the Appellant/Applicant from filing its appeal within limitation, only highlights its lack of diligence, inaction, negligence and lackadaisical attitude. In paragraph 3(a) of the Additional Affidavit, the Appellant/Applicant purported to attribute the delay to non-receipt of the State Commission's Order dated 14.02.2017 in hard copy from the Ld. Counsel for the Appellant along with paper book till the first week of March 2017 such that necessary steps as directed by the State Commission could be undertaken. Non receipt of the hard copy of the said Order along with paperbook from the Ld. Counsel cannot by any stretch of imagination be termed sufficient cause which prevented the Appellant/Applicant from diligently prosecuting this Appeal. The Appellant/Applicant has further in paragraph 3(b) of the Additional Affidavit attributed the reason for delay to putting up/ placing the said Order dated 14.02.2017 before the concerned officers for perusal and consideration and averred that despite best efforts this process of perusal and consideration carried on from the first week of March 2017 to early June 2017. The Appellant/Applicant has sought to justify the actions purely on the basis of delay in inter-departmental government deliberations. It amounts to placing a premium on inaction and cannot be termed sufficient cause.



In para 3(c) to 3(f) of the Additional Affidavit , the Appellant/Applicant attributed the reason for delay to misplacing the paper book of the proceedings before the State Commission by the office staff of the Appellant/Applicant for a period of 3 ½ months i.e., from early June 2017 to 06.10.2017 as part of maintenance work before monsoon season. This explanation is bereft of reason leave alone pass the muster for sufficient cause.

9. For the period from first week of March 2017 to early June 2017 it has been stated that the concerned officers were perusing and considering the order passed by the State Commission with a view to understand the contours of the judgement passed by the State Commission. Interestingly, even as this extensive analysis is purported to be carried out and completed in early June 2017, the Appellant/Applicant has effectively averred on affidavit that from early June 2017 for a period of 3 ½ months thereafter the case records were misplaced, inadvertently. This explanation suffers from inherent contradictions. Moreover, there is no explanation as to what efforts the Appellant / Applicant undertook even assuming without admitting that the case records which it received from the Ld. Counsel in the first week of March 2017 stood misplaced. There is no explanation as to why it could not diligently move an appropriate application before the State Commission seeking issuance of certified copies of the case records on payment of a nominal statutory fee.

10. More importantly, the explanation of sufficient cause requires the Appellant/Applicant to show circumstances which prevented it from prosecuting its Appeal. The case records being misplaced does not by itself prevent the Appellant/Applicant to take steps towards taking a decision regarding filing of an Appeal. However, the decision to file the Appeal is taken only on 06.10.2017 upon locating the purportedly misplaced case records even though as per the additional affidavit the extensive analysis of the decision of the State Commission was carried out from the first week of March 2017 and completed by early June 2017. It is most respectfully submitted by the answering Respondent that the above explanation even when considered from all perspectives, only establishes negligent conduct which is self induced, lacks diligence and bonafides on the part of the Appellant/Applicant in the circumstances of the instant case.

11. The explanation provided in paragraph 3(g) to (i) of the additional affidavit while explaining the delay from 06.10.2017 to third week of February 2018, once again leaves a lot to be desired. The delay is sought to be justified by highlighting the fact that one specific document / annexure, namely, an order dated 26.02.2016 passed by the Ld. Civil Judge, Jr. Division, Budhlada was required by the Ld. Counsel for the purpose of drafting and finalizing the appeal and this was made available only in the Third week of February 2018. It is submitted that such explanations are devoid of merits and by no stretch of imagination be considered sufficient cause preventing the Appellant/Applicant from filing and/or prosecuting its Appeal.

The explanation provided in paragraph 3(k) to 3 (m) of the additional affidavit pertaining to securing procedural approvals from different levels within the Appellant/Applicant's organisation which are peculiar to a Government Department does not amount to sufficient cause in view of settled line of decisions on this issue. Reliance is placed on the decision of the Hon'ble Supreme Court in the case of *Post master General vs Living Media India Ltd* (quoted below) as it has been inter-alia held therein that the time taken in getting intra departmental approvals cannot a valid ground for condoning the delay in filing appeals.

12. The explanation provided regarding the Ld. Counsel proceeding to give the voluminous annexures to be filed for typing only after receiving approval of the Appellant/Applicant on the draft appeal in the last week of May 2018, which could in-turn not be collected till the last week of June 2018 owing to ensuing summer break once again only proves lack of diligence on the part of the Appellant/Applicant. In view of the facts and circumstances of the case as stated supra, the explanation purported to be given by the Appellant/Applicant for the delay of 461 days in the filing of the appeal and its averment in paragraph 3(l) that the appeal was filed with utmost alacrity is entirely frivolous and not bonafide. There is a clear lack of bonafide, negligence and a false stand taken by the Appellant/Applicant. Therefore, on the principles laid by the Hon'ble Courts for condonation of delay as mentioned herein, the instant application is liable to be rejected at the threshold, with costs. To substantiate his submissions, he placed reliance on the Judgment of the Apex Court in "Basawaraj and Ors v. The Spl. Land Acquisition Officer : AIR 2014 SC 746" as

held in paras 9 & 15 thereof and placed reliance on another Judgment reported in “Postmaster General v. Living Media India Ltd. : (2012) 3 SCC 563”, paras 28 & 29 thereof. He further relied on Judgment in “Brijesh Kumar and Ors vs. State of Haryana : (2014) 11 SCC 351” as held in paras 8, 9 & 10 of the said Judgment.

Lastly, he placed reliance on the Judgment in case of “Pundik Jalam Patil vs. Executive Engineer, Jalgaon Medium Project (2008) 17 SCC 448” as held in para 19 of the said Judgment

13. It is manifest on a careful perusal of the explanation detailed in the additional affidavit makes it clear that while the Appellant/Applicant was required to place such events or circumstances which arose prior to the expiry of limitation period i.e., as at the end of March 2017, to establish sufficient cause preventing it from filing its appeal within time, none of the reasons placed for consideration are even otherwise acceptable causes leave alone sufficient cause. Apart from the above, it is a settled principle of law that a party seeking condonation of delay in filing an Appeal beyond the period of limitation has to explain the delay of each and every day. It is stated that the Appellant /Applicant herein in its application apart from failing to show sufficient cause for the delay, has also miserably failed to sufficiently explain the delay of each day and thus, the instant application is liable to be dismissed as misconceived.

In view of same, it is stated that there is no reason whatsoever for condoning the delay. This delay is not properly, satisfactorily and convincingly explained. In fact the delay in filing the accompanying appeal is intentional and deliberate. There is no sufficient cause shown by the appellant for seeking condonation of the delay of 461 days in filing the appeal. In the circumstances mentioned herein above, the appeal

filed by the Appellant/Applicant is an afterthought. It is, therefore, respectfully prayed that this Tribunal may be pleased to dismiss the application for condonation of delay with exemplary cost in the interest of justice and equity.

14. **Per contra**, the Learned Senior counsel appearing for Respondent No, 2, Shri Neeraj Kumar Jain, has filed a detailed reply to the application for condonation of delay and Additional Affidavit filed by the Appellant/Applicant alongwith Affidavit. The learned counsel appearing for the Respondent No. 2 at the outset vehemently submitted that the application for condonation of delay filed by the Appellant/Applicant deserves only to be dismissed with exemplary costs. The application and the additional affidavit subsequently filed by Mr. Balour Singh (Executive Director of the Appellant/Applicant), provide noting but a narrative of administrative and bureaucratic lethargy and gross total negligence. The stated grounds for condonation of delay are entirely frivolous and even if accepted at face value, they show no tenable sufficient cause for condonation of delay. It is now settled law that a “claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted” and that “the law of limitation undoubtedly binds everybody, including the Government” [Postmaster General & Ors. vs. Living Media India Limited & Anr., (2012) 3 SCC 563].

In the light of the judgment of the Hon’ble Supreme Court of India, it is to be seen whether the Appellant/Applicant has met the test of explaining each day of delay with sufficient cause. A plain reading of the application and additional affidavit shows that they are devoid of relevant dates, material particulars and documentary

support. They contain false excuses and state nothing which can be considered as “sufficient cause”.

15. A plain reading of the application for condonation of delay shows that the following timeline has been provided in the application :

From	To	Time	Stated cause for delay
14/12/2017 (Date of impugned order)	06/10/2017	234 days	Time taken for taking final decision to prefer an appeal against impugned order was passed on 14/02/2017, “on account of administrative reasons and obtaining multiple approvals at different levels of the applicant organisation.”
06/10/2017	17/10/2017	11 days	Time taken to engage counsel to file appeal.
17/10/2017	20/10/2017	3 days	Time taken by counsel to seek “the relevant documents/files with regard to the matter enabling him to draft an appeal for filing before this Hon’ble Court.”
20/10/2017	27/10/2017	7 days	Time taken in transmission of files (“The document/files were received by the present counsel within a week’s time thereafter”.)
27/10/2017	26/12/2017	60 days	Time taken by counsel to draft the appeal and send the same to the applicant for approval.
26/12/2017	Last week of ‘04/2018	118 to 1225 days	Time taken by the applicant to accord final approval to the draft.
Last week of ‘04/2018	06/07/2017 (date of filing appeal)	74 to 81 days	Time taken to file the appeal after final approval of the draft by the applicant.

As can be seen, where the statute provides 45 days to file appeal, the appellant/applicant had taken almost 5 times as much time, i.e., 234 days to decide whether to appeal. Then 15 days more than the statute allows, i.e., 60 days, were taken by the counsel to draft the appeal. Then about 120 days were taken to

approve the draft and then another 75-80 days were taken to file the appeal. There is no explanation for the large amounts of time taken for each of these steps. The application only generically cites 'administrative reasons' to explain the delay. This explanation does not warrant condonation of delay.

16. An unsuccessful attempt has been made to improve upon this narrative in the additional affidavit filed by Mr. Balour Singh (Executive Director of the Appellant/Applicant). This additional affidavit states reasons which have not been stated in the condonation application. This is a transparent effort to concoct a new story to get this Tribunal condone delay. In any case, the improvements made in the affidavit of Mr. Balour Singh can be of no avail to the Appellant/Applicant. These improvements are reflected in the following timeline which emerges from the additional affidavit :

From	To	Days	Stated Cause for Delay
14/02/2017 (date of impugned order)	First week of /03/2017	15 to 21 days	Time taken because "copy of the said impugned order was provided by the Ld. Counsel for the Appellant, only in the first week of March, 2017." This is an embellishment which was not mentioned in the application for condonation of delay.
First week of /03/2017	Early /06/2017	86 to 100 days	Time taken by the section office to "understand the contours of the judgment" and by "concerned officers for their perusal and consideration". This process was completed in "early June, 2017". Once again, there are no material details or proofs to substantiate this submission.
Early /06/2017	Later /09/2017	4 to 4 ½ months (including "3 ½ months"	Time taken because the Appellant's staff tied up the file with some other office files and the file could not be found for "3 and a half months". Again, this is a new excuse, which was not part of the original application for condonation of delay.
Later /09/2017	06/10/2017	When the file was lost)	Time taken to process the file and take decision to appeal.
06/10/2017	17/10/2017	11 days	Time taken by the Applicant to engage Counsel after deciding to appeal.
17/10/2017	20/10/2017	3 days	Time taken by counsel to seek "the relevant documents/files with regard to the matter enabling him to draft an appeal for filing before

			this Hon'ble Court".
20/10/2017	20/11/2017	31 days	Time taken by the Applicant to send additional documents/annexures to the Counsel. The affidavit does not mention which additional documents were given.
20/11/2017	26/12/2017	36 days	Time taken by the Counsel to send the first draft of the appeal to the Applicant.
26/12/2017	Third week of -/02/2018	51 to 58 days	Time taken by the Applicant to suggest changes to the appeal and to send one additional document in the "third week of February, 2018". The additional document mentioned is an order dated 26/02/2016. This document was part of the Petition filed before the Ld. Commission below and is not an additional document.
Third week of -/02/2018	First week of -/03/2018	7 to 21 days	Time taken by the Counsel to incorporate the changes suggested by the Applicant.
First week of -/03/2018	Last week of -/05/2018	77 to 91 days	Time taken to examine the draft "at several levels within the Appellant organisation" and getting "procedural approvals from different levels". No approval notes or other documentary support provided for this assertion.
Last week of -/05/2018	Last week of -/06/2018	1 month	Time taken by the Counsel in getting "voluminous annexures typed".
Last week of -/06/2018	06/07/2018	1 to 2 weeks	Time taken by the Counsel to file the appeal after getting annexures typed.

A comparison of these two tables stated supra will further show the convenient additions and embellishments made to othe timeline stated in the condonation application. Secondly the additional affidavit stated that it took 86 to 100 days for various offices of the Appellant to "peruse" and "consider" the file "to understand the contours of the Order".

Thirdly, the excuse of 'misplacement' of the file is as old as the law of limitation itself. As per the additional affidavit, the voluminous file of the case got tied up with another file and could not be found despite best efforts to locate it. This is beyond the pale of believability. Even assuming this to be true, the additional affidavit details no parallel attempts to reconstruct the file. Apparently, the Appellant/Applicant was content to lose the file and took no action for as long as the file remained missing. Therefore, at best this is a case of gross negligence for which

no consideration can be extended towards the Appellant/Applicant as per settled law, and at worse this is a case where the Appellant/Applicant is deliberately misleading this Tribunal. To substantiate his submissions, he placed reliance on the Judgment of the Hon'ble Delhi High Court in the case of "Subhash Chand v. MCD : 221(2025) DLT298" wherein it is held that ***"If a litigant is grossly negligent and the reasons offered are stereotype, vague and lack bona fides delay cannot be condoned"***.

Fourthly, he contended that the additional affidavit states that the Appellant/Applicant took some time in providing the counsel with order dated 26.2.2016 passed by Ld. Civil Judge, Jr. Division, Budhlada. It is submitted that this document was part of the Petition filed by Respondent No. 2 before the Respondent No. 1 Punjab State Commission. Therefore, the submission that this was an additional document which took extra time to provide to the Counsel, is an incorrect submission.

Fifthly, the additional affidavit states that twice delay took place on account of the Appellant/Applicant sending additional document/annexures to their counsel, i.e., from 20.20.2017 to 26.11.2017 to "third week of February 2018". This is between 82 to 89 days. However, it is submitted that there is only one document filed with the present appeal which was not part of the file before the Punjab State Commission, i.e., copy of the Request for Proposal. Therefore, the excuse that time was taken by the Appellant/Applicant in providing additional document/annexures to their counsel, fails to convince, nor there is any cogent reason for explaining the delay.



Finally, the additional affidavit states that the Counsel of the Appellant/Applicant took between 43 and 57 days to draft the appeal and incorporate the changes suggested by the Appellant/Applicant in the appeal. Another 30 days were taken for getting “voluminous annexures typed”. Therefore, a total of 73 to 87 days. While this is certainly understandable, it is submitted that the legislature in its wisdom has provided 45 days for the entire process of filing the appeal.

In conclusion, he submitted 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 and the courts have no power to extend the period of limitation on equitable grounds” [In case of “P.K. Ramachandran vs. State of Kerala (1997) 7 SCC 556].

Having regard to the facts and circumstances of the case above, the learned counsel appearing for the Respondent No. 2 prayed to dismiss the application for condoning the delay in filing the Appeal with exemplary costs.

17. After marathon hearing of the learned counsel appearing for the Appellant and the learned counsel appearing for the Respondents, submission of the learned counsel appearing for the Appellant, counsel appearing for the Respondent no. 1 and Learned Sr. Counsel appearing for Respondent No. 2 and after perusal of the statements made in the Application, Additional Affidavit and Rejoinder filed by the Appellant/Applicant and reply filed by the counsel appearing for the Respondent Nos. 1 & 2 respectively and reliance placed on the judgments of the Apex Court and the High Courts by the counsel appearing for both the parties, the issue that arises

for our consideration is **“whether the Appellant/Applicant has made out a case for condoning the delay in filing the Appeal for 461 days”**.

18. There is an inordinate delay of 461 days in filing the Appeal and it is not in dispute. Further, it is not in dispute that the Respondent No. 1 / Punjab State Commission has passed the impugned order on 14.2.2017. It emerges from the material on record and reply filed by the Respondent No. 1 that a signed copy of the order was sent to the Appellant/Applicant vide communication No. PSERC/Reg/6943-46 dated 14.2.2017 and the same was received by the Appellant/Applicant on 15.2.2017. A copy of the relevant portion of the acknowledgement book has been produced and annexed as Annexure R-1 with the Reply filed by the Respondent No. 1 and further the impugned Order passed by the Respondent No. 1 / Punjab State Commission was also available on the website of the State Regulatory Commission. Further, the Appellant/Applicant neither exhibited any urgency to comply with the directions passed by the State Commission vide the impugned Order dated 14.02.2017 regarding release of remaining Performance Bank Guarantee within seven working days from the date of the said Order, nor did it prefer an appeal diligently before this Tribunal and seek appropriate relief within the prescribed limitation period.

19. The Appellant/Applicant has failed to act in pursuance of the impugned order. Its conduct is not bonafide and the delay ought not to be condoned as the Appellant/Applicant has disabled itself from any equitable relief. It is well settled proposition of law laid down by the Apex Court and this Tribunal and in catena of Judgments that delay defeats equity. It is well settled that courts help those who are vigilant and do not slumber over their rights and take steps promptly to redress their

grievances with truth, without suppressing relevant material on record. It is not in dispute that there is a delay of 461 days from the date of expiry of limitation period. Each of these reasons rather than placing genuine and bonafide circumstances of sufficient cause which prevented the Appellant/Applicant from filing its appeal within limitation time, only highlights its lack of diligence, inaction, negligence and totally indifferent attitude, and that too, having expert legal teams and competent officers with well-equipped infrastructure and all facilities available. In spite of having all these facilities available at their disposal, it emerges that no bonafide efforts were made by the Appellant/Applicant officials well within reasonable time except a bonafide explanation / statement made in the Application for condoning the delay primarily on account of approvals at multiple levels within the Appellant/Applicant organization, shortage of staff to peruse several cases pending adjudication before the State Commission, District Courts, Hon'ble High Court of Punjab and Haryana and before this Tribunal and the inadvertent misplacement of the court file due to the renovation at the record room at the Appellant/Applicant Office. The Appellant / Applicant organization is a multi-layered nodal agency for the purposes of promotion of renewable energy within the State of Punjab. The file is required to be approved at multiple levels within the organization before a formal decision is taken. This entails inevitable delay given the State machinery peculiar to a Government department. In anticipation of the monsoons, renovation work was being carried out in the record room of the Appellant/Applicant organization and the files were moved to enable the renovation at the site. During this process, the Court file was inadvertently tied up with the file of another case. During this period, inordinate delay has been caused and the same has been explained in the Application, Additional Affidavit and Rejoinder and the same may kindly be accepted and delay may be condoned.

20. **Per contra**, it is the case of the learned counsel appearing for the Respondent Nos. 1 & 2 at the outset that Application filed by the Appellant/Applicant herein alongwith additional affidavit and rejoinder seeking condonation of delay of 461 days is not bonafide and is nothing but a abuse of the process of this Tribunal and the same is liable to be dismissed with exemplary costs. To substantiate their submissions, they have furnished all the details and particulars in the relevant paragraphs stated supra and specifically pointed out giving a detailed chart and they specifically contended and submitted that it is proved beyond reasonable doubt that neither the delay has been explained satisfactorily nor sufficient cause has been shown, nor there is diligence. It is established that there is negligence on the part of the officials in charge who are dealing with the matter. Nor is it the case of the Appellant/Applicant that they have taken appropriate action against the officials who are dealing with the case. The Respondent No. 1 has given detailed valid reasons.

21. Further they submitted that on a careful perusal of the explanation detailed in the additional affidavit, it is clear that while the Appellant/Applicant was required to place such events or circumstances which arose prior to the expiry of limitation period i.e., as at the end of March 2017, to establish sufficient cause preventing it from filing its appeal within time, none of the reasons placed for consideration are even otherwise acceptable causes leave alone sufficient cause.

In view of the above, the counsel submitted that there is no reason whatsoever for condoning the delay. In fact, the delay in filing the Appeal is intentional and deliberate. No sufficient cause has been shown for condoning the delay of 461 days in filing the appeal. Therefore, the Application for condoning the

delay and consequently the Appeal filed by the Appellant/Applicant is liable to be dismissed as misconceived and devoid of merits in the interest of justice and equity.

22. The learned Senior Counsel appearing for the Respondent no. 2, inter alia, has taken us through the detailed preliminary submissions stated in the reply in para 2 to 13 and vehemently contended that in view of the well settled law laid down by the Apex Court and High Court of Punjab & Haryana and host of judgments, *a claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted. The law of limitation undoubtedly binds everybody, including the Government.* After careful reading of the Application / Additional Affidavit, it emerges that that they are devoid of relevant dates, material particulars and documentary support. They contain false excuses and state nothing which can be considered as “sufficient cause”, nor do they contain any dates and events. Further, he was quick to point out and placed reliance on the Judgments of the Delhi High Court in the case of “Subhash Chand v. MCD : 221(2025) DLT298” wherein it is held that **“If a litigant is grossly negligent and the reasons offered are stereotype, vague and lack bona fides delay cannot be condoned”**.

In view of the above, it proves beyond reasonable doubt that the additional affidavit etc are fake in nature and non-bonafide. Therefore, the application filed for condonation of delay deserves to be dismissed in limini.

23. Before considering whether the reasons for justifying such a huge delay of 461 days are reasonable or not, it would be useful to refer to the decisions relied upon by the learned counsel appearing for the Appellant in the case of “State of

Haryana v. Chandra Mani and Others reported in “(1996) 3 SCC 132”, as held in para 11 thereof --

*“11. -It is notorious and common knowledge that delay in more than 60 per cent of the cases filed in this Court - be it by private party or the State - are barred by limitation and this Court generally adopts liberal approach in condonation of delay finding somewhat sufficient cause to decide the appeal on merits. It is equally common knowledge that litigants including the State are accorded the same treatment and the law is administered in an even-handed manner. When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community.”*

*(Emphasis supplied)*

24. Further, he placed reliance on Judgment of the Apex Court in the case of “State of Nagaland v. Lipok AO and Others as reported in “(2005) 3 SCC 752” in para 15 wherein it is held as under :-

*“15. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay - intentional or otherwise - is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of*

*sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The court should decide the matters on merits unless the case is hopelessly without merit.”*

*(Emphasis supplied)*

In view of the above, we do not find any justification and good ground as such made out by the Appellant/Applicant, nor do we find that satisfactory or sufficient cause been shown. Therefore, we are of the considered view that the said reliance placed by the counsel is not applicable to the facts and circumstances of the case in hand.

25. It is pertinent to note as to how the concerned officer, in spite of having all the infrastructure at his disposal, that too, in digital era of whatsapp, e-mail, messages and all scientific and technological improvements, expert assistance, well equipped learned officials working in the Department is not forthcoming in their application, additional affidavit nor written submissions. Therefore, we hold that the statement made in the Application / Additional Affidavit is not applicable to the facts and circumstances of the case in hand and further it would not give any assistance to the learned counsel appearing for the Appellant/Applicant to substantiate the statement made in the application for condoning the delay in filing. Therefore, we do not find any force in the submissions of the learned counsel appearing for the Appellant/Applicant to condone the delay in filing the Appeal.

26. As rightly pointed out by the learned counsel appearing for the Respondent Nos. 1 & 2 and reliance placed on the Judgments of the Apex court in the case of

“Basawaraj and Ors v. The Spl. Land Acquisition Officer : AIR 2014 SC 746” as held in paras 9 & 15 thereof—

*“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 explanation 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. (See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee and Ors. AIR 1964 SC 1336; Lala Matadin v. A. Narayanan AIR 1970 SC 1953; Parimal v. Veena @ Bharti AIR 2011 SC 1150; and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai AIR 2012 SC 1629.)*

*10. In Arjun Singh v. MohindraKumar AIR 1964 SC 993 this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".*



11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide: Madanlal v. Shyamlal AIR 2002 SC 100; and Ram Nath Sao @ Ram Nath Sahu and Ors. v. Gobardhan Sao and Ors. AIR 2002 SC 1201.)

.....

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

(Emphasis supplied)

He further placed reliance on another Judgment reported in "Postmaster General v. Living Media India Ltd. : (2012) 3 SCC 563", paras 28 & 29 thereof read thus –

*“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.*

*29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”*

*(Emphasis supplied)*

Further he relied on Judgment in “Brijesh Kumar and Ors vs. State of Haryana : (2014) 11 SCC 351” as held in paras 8, 9 & 10 of the said Judgment mentioned as hereinunder –

*“8. In P.K. Ramachandran v. State of Kerala [(1997) 7 SCC 556 : AIR 1998 SC 2276] , the Apex Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under: (SCC p. 558, para 6)*

*“6. Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds.”*

*9. While considering a similar issue, this Court in Esha Bhattacharjee v. Raghunathpur Nafar Academy [(2013) 12 SCC 649 :*

(2014) 1 SCC (Civ) 713 : (2014) 4 SCC (Cri) 450] laid down various principles *inter alia*: (SCC pp. 658-59, paras 21-22)

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*“21.5. (v) Lack of bona fides impuF to a party seeking condonation of delay is a significant and relevant fact.*

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*21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.*

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*21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach.*

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*22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.”*

*10. The courts should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. However the court while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone.”*

*(Emphasis supplied)*

Lastly, he placed reliance on the Judgment in case of “Pundik Jalam Patil vs. Executive Engineer, Jalgaon Medium Project (2008) 17 SCC 448” as held in para 19 of the said Judgment, which reads thus –

“19. In *Ajit Singh Thakur Singh v. State of Gujarat* [(1981) 1 SCC 495 : 1981 SCC (Cri) 184] this Court observed: (SCC p. 497, para 6)

“6. ... it is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute sufficient cause.”

(emphasis supplied)

*This judgment squarely applies to the facts in hand.”*

They further placed reliance in the case of “Subhash Chand v. MCD : 221(2025) DLT 298” wherein it is held that **“If a litigant is grossly negligent and the reasons offered are stereotype, vague and lack bona fides delay cannot be condoned”**.

(Emphasis supplied)

27. We have already extracted the reasons as mentioned in the better affidavit sworn by Shri Balour Singh, S/o Shri Dwarka Singh, working as Executive Director of Punjab Energy Development Agency (PEDA) at Plot No. 1-2, Sector-33D, Chandigarh-160034, wherein he stated that impugned Order was passed by the Punjab State Electricity Regulatory Commission, Chandigarh on 14.2.2017. The hard copy of the said impugned order was provided by the Counsel for the PEDA only in the first week of March, 2017 along with the complete paper book to the Appellant to undertake necessary steps as directed therein by the State Regulatory Commission. But it is significant to note that as rightly pointed out by the learned

counsel appearing for the Respondent No. 1 in para 2 of the reply filed on 8.10.2018 wherein he specifically stated that the Appellant/Applicant herein was fully aware of the Order of the State Regulatory Commission dated 14.2.2017 from the time when the Order was passed. A signed copy of the said Order was sent by hand to the Appellant vide communication no. PSERC/Reg/6943-46 dated 14.02.2017 and the same was received by the Appellant on 15.02.2017. A copy of the relevant portion of the acknowledgement book is annexed hereto and marked as **Annexure:R-1**. Further, the order was also available on website of the Respondent No. 1 State Regulatory Commission. Therefore, we are of the considered view that the statement made in the additional affidavit cannot be accepted, nor do we find any truth in such statement made by the person who submitted the affidavit on oath. There is no explanation as coming forth. Nor the sufficient cause has been shown. It is significant to note that in spite of affording another two opportunities to file better affidavit for placing adequate material, neither the Department nor the person in charge has filed any application as to explain satisfactorily as to why the delay of 461 days has been caused, nor any sufficient cause has been shown. It clearly shows that there was a delay at every stage, except mentioning the date of receipt of the file and the decision taken, there is no explanation as to why such delay has occasioned. Though it was stated that the delay occurred due to unavoidable circumstances and difficulties, the fact remains that from the day one, the Department/Organisation or the person(s) concerned have not prosecuted the case to this Tribunal by taking appropriate steps well within prescribed limitation period.

28. It is not in dispute that the person(s) concerned were well aware or conversant with the issue of the period of limitation prescribed for taking the steps by way of filing an Appeal before this Tribunal. They cannot claim that they have a

separate period of limitation when the Department/Organisation was possessed with competent persons familiar with court proceedings, and also have got well-qualified legal assistance. In absence of reasonable explanation, we are at a loss to understand as to why the delay has to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay, a liberal approach has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances of the case in hand, the Appellant/Applicant organization cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technology being used and available. The law of limitation undoubtedly binds everybody including Government Departments.

29. We thus, hold that it is a right time to inform all the Government bodies, local authorities, their agencies and instrumentalities thereof, that unless they have reasonable and acceptable explanation for delay and there were proper efforts and if there is no plea except to say that the file was kept pending for several months/years, the statement of considerable degree of procedural red-tape in the process. The Government Departments are under special obligation to ensure that they perform their duties with diligence and commitment. The condonation of delay is an exception and should not be used as an anticipated benefit for the Government Department. The law shelters everyone under the same light and should not swirl for the benefit of a few.

30. Considering the facts and circumstances of the case that there was neither satisfactory explanation nor sufficient cause offered by the Appellant/Applicant for

the delay except mentioning statements ominous in nature, we hold that the Appellant/Applicant has miserably failed to assign any unavoidable or cogent reasons sufficient to condone 461 days' delay in filing the Appeal.

Accordingly, the Application filed by the Appellant for condoning the delay in filing the Appeal is dismissed on the ground of delay and laches and consequently the Appeal is also dismissed.

**(S.D. Dubey)**  
**Technical Member**

**(Justice N.K. Patil)**  
**Judicial Member**

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