

(NON-REPORTABLE)

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 5149 OF 2009
(Arising out of SLP©No.11105 of 2008)

State of J & K & Ors.

----Appellants

Versus

Mohmad Maqbool Sofi & Ors.

----Respondents

J U D G M E N T

TARUN CHATTERJEE,J.

1. Leave granted.
2. This appeal is directed against an order dated 24th of July, 2007 passed by the High Court of Jammu & Kashmir at Srinagar in LPA No.254/2006, by which the High Court had rejected the application for condonation of delay in filing the Letters Patent Appeal and consequent thereupon, the appeal was dismissed on the ground of delay.
3. We have carefully examined the application filed by the State of Jammu & Kashmir, the appellant

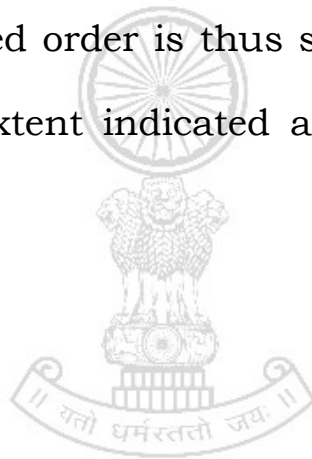
herein, and the statements made thereunder and also the impugned order. After thorough examination of the application for condonation of delay and the impugned order, we are of the view that the State of Jammu and Kashmir had made out sufficient cause for not filing the Letters Patent Appeal within the period of limitation. It is not in dispute that there has been a delay of 97 days in filing the appeal at the instance of the State of Jammu and Kashmir. It is well settled that for the purpose of filing an appeal, the file has to be rooted through different departments of the State which require some time to take a final decision whether the Letters Patent Appeal shall be filed against the order of the learned Single Judge.

4. That being the position, we set aside the impugned order and restore the Letters Patent Appeal to its original number. The High Court is now requested to dispose of the Letters Patent Appeal within three months from the date of supply of a copy of this

order to it after giving hearing to the parties and after passing a reasoned order in accordance with law.

5. When the LPA will be restored, it will be open to the parties to apply for appropriate interim order before the High Court and if such application is filed, the High Court is requested to decide the same as expeditiously as possible.

6. The impugned order is thus set aside. The appeal is allowed to the extent indicated above. There will be no order as to costs.



.....J.
[Tarun Chatterjee]

New Delhi;
.....J.
July 31, 2009.

JUDGMENT

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[R.M.Lodha]