

**General Clauses Act S. 10 - There is a general principle that a party, prevented from doing an act for some reasons beyond his control, can do so at the first subsequent opportunity - The underlying object of Section 10 is to enable a person to do what he should have done in a holiday, on the next working day - Said principle is based on the doctrine that law does not compel the performance of an impossibility.**

Information was circulated by the Commandant, II Battalion, on 10.4.2003, that applications of the prospective candidates for appointment to the post of Armourer be submitted to the Head Office by 14.4.2003, and no application sent thereafter will be considered. Along with their applications, the candidates were also required to submit the medical certificate from the Chief Medical Officer as per category A. Although, the appellant submitted his application, along with educational qualification on 14.4.2003, but the medical certificate could not be appended therewith. The case of the appellant was that 11th April was a gazetted holiday on account of Ram Navami, 12th and 13th April happened to be second Saturday and Sunday, whereas, 14th April was a holiday on account of Ambedkar Jayanti.

Thus, from 11.4.2003 to 14.4.2003, it was not possible for him to have procured the said certificate, and which he could obtain and furnish on 15.4.2003. But, his claim was rejected, as he failed to furnish the required document, along with the application, on 14.4.2003. The writ petition filed by the petitioner was dismissed and in the appeal filed against the said decision, the Division Bench affirmed the view of the learned Single Judge.

It was in this context, the Supreme Court, in reference to its earlier decisions, concluded:

11. Section 10 of the General Clauses Act has come up for consideration in various cases before this Court and also different High Courts. In the case of (*H.H. Raja Harinder Singh v. S. Karnail Singh and others*, AIR 1957 SC 271, a four-Judge Bench of this Court explained the object of Section 10 very lucidly. The learned Judges have held as under:-

“...Where, therefore, a period is prescribed for the performance of an act in a Court or office, and that period expires on a holiday, then according to the section the Act should be considered to have been done within that period, if it is done on the next day on which the Court or office is open. For that section to apply, therefore, all that is requisite is that there should be a period prescribed and that period should expire on a holiday.” (Page 273 of the report)

12. The decision in the case of *Harinder Singh* (supra) was rendered in the context of an election dispute but the general principles explained therein apply to all cases.

13. Even while construing the provisions of Section 167 of Criminal Procedure Code, 1961, this Court accepted the same interpretation in respect of Section 10 of the General Clauses Act. [See *Ghaganti Satyanarayana v. State of Andhra Pradesh*, (1986) 3 SCC 141. (para 30 page 154 of the report)].

14. The learned Judges in *Chaganti* (supra) accepted the interpretation of Section 10 in the case of *N. Sureya Reddy v. State of Orissa*, 1985 Cri LJ 939 (Ori), and held that the principle

enunciated in Section 10 of General Clauses Act should be invoked on consideration of justice and expediency.

15. Rather recently in the case of *Huda v. Dr. Babeswar Kanhar and another*, (2005)1 SCC 191, this Court held that there is a general principle that a party, prevented from doing an act for some reasons beyond his control, can do so at the first subsequent opportunity. The learned Judges further elaborated by saying that the underlying object of Section 10 is to enable a person to do what he should have done in a holiday, on the next working day. The learned Judges held that the said principle is based on doctrine that law does not compel the performance of an impossibility. In saying so, the learned Judges relied on an old decision of Calcutta High Court in the case of *Hossein Ally v. Donzelle*, ILR (1880) 5 Cal 906. This Court is in respectful agreement with the aforesaid principles.

16. xx xx xx xx

17. The application filed by the appellant on the post of Constable Amorer Course is valid and should be considered as valid and the respondents are directed to take steps on the same in accordance with law and within a period of six weeks from the date of service of this order upon them.”

[Mohd. Ayub v. State Of Uttar Pradesh, 2009 PLRonline 0009](#)