

**IN THE HIGH COURT OF MANIPUR  
AT IMPHAL**

**MC (W.A.) No. 192 of 2022**

State of Manipur; & Anr.

***Applicants***

**Vs.**

Md. Abdul Helim Khan

***Respondent***

BEFORE  
**HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR  
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

**03.02.2023**

***Sanjay Kumar (C.J.):***

By way of this miscellaneous case, the State of Manipur and the Director of Higher and Technical Education, Government of Manipur, seek condonation of the delay of 191 days in preferring an appeal against the judgment and order dated 10.05.2022 passed in W.P. (C) No. 524 of 2021.

Heard Mr. M. Devananda, learned Additional Advocate General, Manipur, appearing for the applicants; and Mr. M. Hemchandra, learned senior counsel, appearing for the respondent, *viz.*, the writ petitioner.

The petition sets out the steps taken by the authorities from 10.05.2022, the date of the judgment, till the filing of the appeal on 17.11.2022. Para 3.3(i) to Para 3.3(viii) details the steps taken during this period. However, as rightly pointed out by Mr. M. Hemchandra, learned senior counsel, a decision was taken on 29.07.2022 itself to file the appeal but it was filed only on 17.11.2022. It appears that the delay in this regard was attributable to the learned Government Advocate in preparing and filing the appeal.

Mr. M. Devananda, learned Additional Advocate General, Manipur, would rely on the judgment of the Supreme Court in **N. Balakrishnan Vs. M.**

**Krishnamurthy {(1998) 7 SCC 123}**, wherein the Supreme Court held that in the absence of *malafides* or deliberate delay, the Court should normally condone the delay.

Per contra, Mr. M. Hemchandra, learned senior counsel, would rely on the judgments of the Supreme Court in **Office of the Chief Post Master General and others Vs. Living Media India Ltd. and another (AIR 2012 SC 1506)** and **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai (2012 SC 1629)**.

In the earlier judgment, the Supreme Court observed that in the absence of plausible and acceptable explanation, the question would arise as to why the delay should be condoned mechanically merely because the Government or a wing of the Government is a party. The Supreme Court further observed that in condoning the delay, if the Court finds there is no gross negligence or deliberate inaction or lack of *bonafides*, a liberal concession would be adopted to advance substantial justice but the law of limitation would undoubtedly bind everybody, including the Government.

In the latter judgment, the Supreme Court observed that even though a liberal and justice-oriented is required to be adopted while exercising power under Section 5 of the Limitation Act, 1963, the Court cannot be oblivious of the fact that the successful litigant would acquire certain rights. It was further observed that, if there is no negligence on the part of the applicant and the cause shown for the delay does not lack *bonafides*, then such delay may be condoned.

Applying the aforestated principles, we are of the opinion that the delay on the part of the Government Advocate should not be a reason for the applicants to suffer. All the more so, when the delay, in itself, is not substantial if the delay on the part of the Government Advocate is deducted.

MC (W.A.) No. 192 of 2022 is accordingly ordered, condoning the delay of 191 days in the presentation of the appeal.

Registry is directed to number the appeal, if it is otherwise found to be in order, and list the same for admission on 17.02.2023 along with Caveat No. 243 of 2022.

Registry is also directed to print the name of Mr. M. Devananda, learned Additional Advocate General, Manipur, in the cause list on the said day.

*Sandeep*

**JUDGE**

**CHIEF JUSTICE**