

GAHC010190872019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/2670/2019

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, AGRICULTURE
DEPARTMENT, DISPUR, GUWAHATI- 6.

2: THE DIRECTOR OF AGRICULTURE
ASSAM
KHANAPARA
GUWAHATI-22.

3: THE CHIEF ENGINEER
AGRICULTURE
ASSAM
KHANAPARA
GHY-22.

4: DISTRICT AGRICULTURE OFFICER
JORHAT
DIST.- JORHAT
ASSAM
PIN- 785001

VERSUS

DR. BIRENDRA NATH SARMA AND 4 ORS.
S/O- LATE GOLOK CHANDRA SARMA, R/O- SURAJ LAKSHMI PATH, NA-
ALI, JORHAT, P.S. AND DIST.- JORHAT, ASSAM, PIN- 785001.

2:SRI DILIP KUMAR BARUAH
S/O- LATE DEBESWAR BARUAH
R/O- H/NO. 6
ASHOK NAGAR
BISHNU RABHA PATH
BELTOLA
DIST.- KAMRUP(M)

GUWAHATI- 781028.

3:SRI LAKHESWAR GAM
S/O- LATE DIMBESWAR GAM
R/O- VILL.- MILANPUR
P.O. AND P.S. GARAMPUR SATRA
DIST.- MAJULI
PIN- 785104
ASSAM.

4:SRI RONBIR KAKATI
S/O- SIBA CHANDRA KAKATI
R/O- R.G. BARUAH ROAD
GUWAHATI-24
DIST.- KAMRUP(M)
ASSAM.

5:SRI ROHIT BHARALI
S/O- LATE BHABA KANTA BHARALI
R/O- A.T. ROAD
HAIBORGAON
P.O. AND P.S. NAGAON
DIST.- NAGAON
ASSAM

Advocate for the Petitioner : ADDL. SR. GA, ASSAM

Advocate for the Respondent : MS N NEWME (r-1 to 5)

:::BEFORE:::

HON'BLE THE CHIEF JUSTICE

HON'BLE MRS. JUSTICE MITALI THAKURIA

09.06.2023

(M. Thakuria, J.)

Heard Mr. B. Choudhury, learned counsel for the State applicants. Also heard Mr. A. Boro, learned counsel for the respondent Nos. 1 to 5.

This is an application under Section 5 of the Limitation Act, 1963, praying for condonation of delay of 533 days in preferring the connected writ appeal against the judgment and order dated 30.11.2017, passed by the learned Single Judge in W.P.(C) Nos. 6465/2017, 6468/2017, 6470/2017, 6480/2017 & 6494/2017.

The grounds for delay brought in the present application in preferring the connected appeal is that the file was moved in different levels to obtain views of the different departments including Judicial Department as well as Advocate General of Assam and Senior Government Advocate of Assam and ultimately approval of Chief Minister of Assam was taken and hence, the delay of 533 days occurred in preferring the appeal from the date of passing the judgment and order dated 31.11.2017. It is also stated that due to engagement of officials in the last Election, including Lok Sabha Election in the State and also in NRC works, the movement of file to various departments was also slow and for which, the delay of 533 days occurred in preferring the appeal.

Mr. B. Choudhury, learned counsel for the State applicants, submitted that there was no laches or intentional delay on the part of the applicants in preferring the connected writ appeal and the delay was occurred only due to circumstances which was beyond the control of the applicants and accordingly, prayed to condone the delay of 533 days in preferring the connected appeal.

In this context, the learned counsel, Mr. A. Boro, appearing on behalf of respondent Nos. 1 to 5, has submitted that there is no proper explanation in the application to condone the delay of 533 days in preferring the appeal. Further, there is no proper explanation as to where the file had to be moved for

obtaining the approval for preferring the appeal, which took long 533 days in preferring the connected appeal.

After hearing the submissions made by the learned counsels for both the sides and also considering the grounds mentioned in the present application for condoning the delay of 533 days, it is seen that there is no proper explanation in regards to delay of 533 days in preferring the appeal from the date of judgment, which was passed on 30.11.2017. The only reason pleaded by the applicants in the application that the file had to move in different levels to obtain the view of different departments and to obtain the approval from the Chief Secretary and the Chief Minister cannot be considered as a proper explanation of the huge delay in preferring the appeal. Further, the cause of delay due to engagement of the officials in Election as well as NRC works also cannot be considered as just and satisfactory ground for condoning the delay of 533 days in preferring the connected appeal.

In view of above, we do not find any merit in this application to condone the delay of 533 days in preferring the connected appeal and accordingly, the Interlocutory Application stands dismissed.

As a consequence, the connected writ appeal filing number (WA/8562/2019) is also rejected.

JUDGE

CHIEF JUSTICE

Comparing Assistant