

**HIGH COURT OF TRIPURA
AGARTALA**

IA No.01/2025 in/and W.A. No.90 of 2025

Sri Nihar Ranjan Saha, aged about....years, son of late Sonatan Saha, resident of Durgapur, P.O.-Sarma, P.S.-Gondatwisa, District-Dhalai, Tripura;

..... Appellant/Applicant (s).

V E R S U S

1. The State of Tripura, represented by its Secretary, Home Department, Government of Tripura, New Capital Complex, P.O.-Civil Secretariat, P.S.-New Capital Complex, Agartala, District-West Tripura, Pin-799010.

2. Superintendent of Police, Dhalai, Tripura, Government of Tripura, Pin-799289;

3. Sri Dilip Debbarma, D.C.M., Gondacherra, P.S.-Gondacherra, District-Dhalai, Tripura, Pin-799284;

4. Officer-in-Charge, Gondacherra Police Station, Government of Tripura, District-Dhalai, Tripura, Pin-799284;

5. District Excise Officer, Government of Tripura, District-Dhalai, Tripura, Pin-799289;

6. Sri Biswajit Singha Roy, Drug Inspector, Office of the Chief Medical Officer, Dhalai, posted at Ambassa, District-Dhalai, Pin-799289;

..... Respondent(s).

For Appellant/Applicant (s) : Mr. Debalay Bhattacharya, Sr. Advocate,
Mr. Samar Das, Advocate.
Mr. Agniva Chakrabarti, Advocate

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT**

CAV reserved on : **16.12.2025.**

Judgment delivered on : **19.12.2025.**

Whether fit for reporting : **YES**

JUDGMENT & ORDER

(Biswajit Palit, J)

Heard Mr. Agniva Chakrabarti, learned counsel appearing for the
appellant/applicant.

2. This application has been filed by the appellant/applicant under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 202 days in filing the connected writ appeal challenging the judgment dt. 24.01.2025 passed by the Learned Single Judge in WP (C) No.44 of 2025.

3. It is stated in the application filed by the appellant/applicant seeking condonation of delay that after the judgment was pronounced on 24.01.2025, certified copy has been collected and, in compliance thereto, on 10.03.2025, the appellant/applicant approached the Sub-Divisional Magistrate, Gandacherra but, no action was taken. After that, again on 17.03.2025 and 21.03.2025, the appellant/applicant approached the Sub-Divisional Magistrate, however, the Officer was absent and nothing could be done. Thereafter, having no other alternative remedy, on 29.03.2025, the appellant/applicant served one demand notice for releasing the goods but, no action was taken in response to the said notice.

4. It is further stated in the application that the appellant/applicant, thereafter, consulted with the Advocate for taking appropriate step and accordingly, the contempt application was supposed to be filed. But, as there was no material, the contempt application was not accepted by the Registry. After that, on 12.08.2025, the appellant/applicant filed a writ petition but, on the following day i.e. on 13.08.2025, the same was not pressed by the petitioner, the appellant/applicant herein. It is again stated by the learned counsel for the appellant/applicant that the delay is unintentional and the connected appeal is very meritorious. So, learned counsel for the appellant/applicant submitted that the delay requires to be condoned.

5. At the time of hearing, learned counsel for the appellant/applicant only projected the aforesaid facts but failed to explain the Court how the delay

was caused in preferring the appeal. The limitation for preferring the appeal is fixed at 30 days, excluding the period required for obtaining the certified copy; however, the appellant/applicant, save and except mentioning some dates, could not place any other materials before this Court to consider the application for condonation of delay. Thus, it appears that there was lack of due diligence on the part of the appellant/applicant in preferring the appeal on time.

6. In ***Thirunagalingam v. Lingeswaran & Anr.***¹, at para Nos.31 and 32, Hon'ble the Supreme Court observed as under:

“31. It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

*32. Further, this Court has repeatedly emphasised in several cases **that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party.** In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.”*

(emphasis supplied)

7. Similarly, in ***H. Guruswamy & Ors. v. A. Krishnaiah since deceased by Lrs.***², at para Nos.16 and 17, Hon'ble the Supreme Court observed as under:

“16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be

¹ 2025 SCC OnLine SC 1093

² 2025 SCC OnLine SC 54

non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time."

8. It is the settled position that the law of limitation is based on public policy and principles of equity. The power under Section 5 of Limitation Act, 1963 is a discretionary power and it may not be exercised if the delay is attributed to the elements of negligence, carelessness and lack of due diligence on the part of the appellant/applicant.

9. Having considered the facts and circumstance of the case, we are not at all satisfied with the explanations as offered by the appellant/applicant in the application for condonation of delay of 202 days in preferring the connected appeal.

10. Accordingly, the application for condonation of delay filed by the appellant/applicant is rejected. Consequently, the connected appeal is also dismissed.

All pending application(s), shall stand closed.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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