

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CJ Court:

LPA No. 245/2024

CM No. 6945/2024

CM No. 6946/2024

Uploaded on: 06.11.2025

1. Union Territory of J&K ...Petitioner(s)/Appellant(s)
Through Commissioner/Secretary to
Government, Jal Shakti Department,
Civil Secretariat, Jammu.
2. Chief Engineer, Irrigation & Flood
Control Department, Jammu.
3. Superintending Engineer, Irrigation
& Flood Control, Hydraulic Circle,
Jammu.
4. Executive Engineer,
Irrigation Division No.II,
Jammu.

Through: Ms. Monika Kohli, Sr. AAG

v/s

Raja Ram S/O Late Kidar Nath, ... Respondent(s)
R/O Village Ratnal, Tehsil Bishnah,
District Jammu.

Through: Mr. Sachin Gupta, Advocate

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

**ORDER
03.11.2025**

CM No. 6945/2024

1. The respondent-writ petitioner had filed the writ petition being WP(C)

No.1290/2022 thereby seeking the following reliefs:

- (i) An appropriate writ in the nature of Writ of Mandamus commanding the official respondents to release the total outstanding payment to the tune of Rs. 15,98,000/- (Rupees

fifteen lakhs ninety-eight thousand only) for all the twelve contracts allotted to the petitioner.

- (ii) An appropriate Writ, Order or Direction in the nature of Writ of Mandamus commanding the Respondents to pay the petitioner an interest at the market prevalent rate of 12% on the payments, which are lawfully due to petitioner and which have been duly admitted by the respondents to be paid to the petitioner w.e.f. the date the payments are due till the payments are finally released in favour of the petitioner.

2. On 14.06.2022, the very first day when the matter was listed before the Court, the learned Writ Court without issuing any notice to the applicants-respondents therein passed the following order.

“Heard.

The case set up by the petitioner precisely is that pursuant to allotment of works to him by the respondents-Department, he executed the same and has submitted his bills. Grievance of the petitioner is that in spite of the timely completion of the works by him, his admitted liabilities have not been cleared by the respondents. Reference is made to Communication No. JID/II/963-964 dated 09.05.2022 (Annexure-1) of the Superintending Engineer, Hydraulic Circle, Jammu-respondent No. 3 herein.

Having regard to the grievance of the petitioner and the relief sought, this petition is admitted to hearing and disposed of by issuing direction to the respondents that admitted liabilities towards the petitioner shall be cleared without any undue delay, preferably within a period of eight weeks from the date, the petitioner produces a copy of this order in the office of Chief Engineer, Irrigation and Flood Control, Jammu-respondent no. 2 herein.”

3. This application has been filed seeking condonation of delay of 835 days in filing the appeal against the order dated 14.06.2022 (supra) on the ground that the impugned order involved complex issues relating

to public money and required detailed examination by various departments including Finance Department, Technical Wing, Audit Section and Legal Cell. Besides, investigation was also required in respect of financial irregularities. Precisely, it is the contention of the applicants-respondents that as the matter pertained to huge public money, therefore, the matter was scrutinized at various levels.

4. The respondent-writ petitioner has filed the response to this application stating therein that despite service of order dated 14.06.2022 passed by the learned Single Judge, the applicants-respondents did not comply with the same, as a result of which, the respondent-writ petitioner filed contempt petition bearing CCP(S) No. 304/2022 and during the pendency of the contempt petition, a speaking order dated 28.09.2024 came to be passed by the applicants-respondents, thereby rejecting the claim of the respondent-writ petitioner despite the fact that a communication dated 09.05.2022 was also issued by the applicant No. 4 to the applicant No. 3 apprising him that an amount of Rs. 15.98 lacs was due to respondent-writ petitioner. It is also stated that no sufficient cause has been demonstrated by the applicants-respondents in the application, as such, delay cannot be condoned.

5. Mrs. Monika Kohli, learned Sr. AAG has submitted that without issuing notice to the applicants-respondents and without affording opportunity of hearing to the applicants-respondents, order impugned dated 14.06.2022 came to be passed by the learned Writ Court and the

applicants-respondents were denuded of their right to examine and consider the claim of the respondent-writ petitioner for release of payment, claimed to be due in his favour and rather on the very first day, the writ of mandamus was issued to release the admitted liabilities in favour of the respondent-writ petitioner. She has further argued that after examining the record, it was found that several works claimed to have been executed by the respondent-writ petitioner were not recorded/authenticated in the measurement books, making such claims unsustainable as per established norms and vide consideration order dated 28.09.2024, the claim of the respondent was rejected. She has placed reliance upon the judgment of the Hon'ble Supreme Court of India in "**Inder Singh vs. the State of Madhya Pradesh**", 2025 INSC 382.

6. *Per contra*, Mr. Sachin Gupta, learned counsel appearing for the respondent-writ petitioner has submitted that no sufficient cause has been demonstrated by the applicants-respondents for condoning the delay, as such, the delay cannot be condoned.
7. Heard learned counsel for the parties and perused the record.
8. Admittedly, the writ petition was disposed of by the learned Writ Court without allowing the applicants-respondents to put forth their case before the Court and even the order impugned denuded the applicants-respondents of their right to examine the claim of the respondent-writ petitioner and reliance was placed on *inter se* communications between the applicants Nos. 3 & 4. A huge amount

of money was involved in the claim made by the respondent-writ petitioner and after examining the record, the applicants-respondents have arrived at a conclusion that claim of the respondent-writ petitioner is not sustainable in law and this, of course, consumed some times.

9. In “**Inder Singh vs. the State of Madhya Pradesh**”, 2025 INSC 382, the Hon’ble Supreme Court of India has observed that *there can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.*
10. In “**Sheo Raj Singh (Deceased) Through LRS. &Ors. vs. Union of India &Anr.**” 2023INSC885, the Hon’ble Supreme Court of India has further observed that *as the aforementioned judgments have shown, such an exercise of discretion does, at times, call for a liberal and justice-oriented approach by the Courts, where certain leeway could be provided to the State. The hidden forces that are at work in preventing an appeal by the State being presented within the prescribed period of limitation so as not to allow a higher court to pronounce upon the legality and validity of an order of a lower court and thereby secure unholy gains, can hardly be ignored. Impediments in the working of the grand scheme of governmental functions have to be removed by taking a pragmatic view on balancing of the competing interests.*

11.We would not like to venture into the arena of merits of the claims made by the contesting parties, but, in view of the averments made in the application that the matter was required to be examined at various levels and that the order impugned was passed by the learned Writ Court without affording an opportunity of hearing to the applicants-respondents and particularly when public money is involved, we are of the considered view that the applicants-respondents have made out sufficient cause for condoning the delay. Accordingly, the application is allowed and the delay of 835 days in filing the appeal is condoned.

12.Condonation application is **disposed** of.

13.Main appeal is taken on board.

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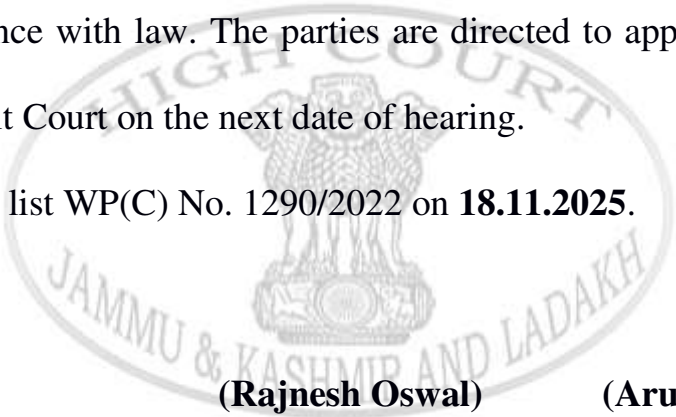
1. Issue notice. Mr. Sachin Gupta, Advocate waives notice on behalf of respondent-writ petitioner.
2. With the consent of learned counsel appearing for the parties, this appeal has been taken up for final disposal.
3. We need not refer to the grounds urged by the appellants-writ respondents to challenge the order dated 14.06.2022 passed in WP(C) No.1290/2022 as we have already recorded the same while considering the application seeking condonation of delay.
4. Both the learned counsels appearing on behalf of the parties have reiterated the submissions as recorded above.
5. Heard learned counsel for the parties and perused the record.

6. As already noted above while allowing the application seeking condonation of delay that the writ petition preferred by the respondent-writ petitioner was disposed of on the very first day of its filing without issuing any notice to the respondents. We could have ignored the said fallibility of the learned writ Court, had the learned writ Court only directed the appellants-writ respondents to consider the claim of the respondent-writ petitioner for making payment of admitted liabilities, but, the learned writ Court without issuing any notice to the appellants-writ respondents and without affording any due opportunity of hearing to them has issued positive directions to the appellants-writ respondents to release the admitted liabilities in favour of the respondent-writ petitioner, as such, we deem it proper to show indulgence.
7. Learned counsel for the respondent-writ petitioners may be correct in submitting that the claim of the respondent-writ petitioner could not have been rejected on account of non-floating of tenders and lack of administrative approval as well as technical sanction, but, equally true is that the appellants-writ respondents were required to be afforded an opportunity of hearing to satisfy with regard to the execution of the works and to file response to the writ petition.
8. The perusal of the communication dated 28.09.2024 placed on record by the appellants-writ respondents bears testimony to the fact that there was dispute in respect of the execution of the works and this aspect of the case, in the opinion of this Court, is required to be

examined in detail by the learned writ Court. And as such, this is a fit case for its remission to the learned writ Court for fresh disposal in accordance with law after affording due opportunity of hearing to the other side. We may hasten to add that in terms of Rule 15 of the Writ Proceedings Rules, 1997, the learned writ Court at the first instance upon its satisfaction may issue rule nisi or notice for rule nisi or dismiss the writ petition. The course of straightway allowing the writ petition without hearing the appellants-writ respondents was not at all available to the learned writ Court.

9. In view of above discussion, we are of the considered view that order dated 14.06.2022 passed in WP(C) No. 1290/2022 is not sustainable in the eyes of law and the same is, accordingly, set aside and the matter is remitted back to the learned writ Court for its fresh disposal in accordance with law. The parties are directed to appear before the learned writ Court on the next date of hearing.

10. Registry to list WP(C) No. 1290/2022 on 18.11.2025.



(Rajnish Oswal)
Judge

(Arun Palli)
Chief Justice

Jammu
03.11.2025
Madan Verma-Secy.

Whether order is speaking? **Yes.**
Whether order is reportable? **No.**