

Serial no. 25 Regular cause list

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CM (3348/2025) in LPA 117/2025 CM (3349/2025)

Date of Pronouncement: 10.12.2025

Uploaded on: 11.12.2025.

**UNION TERRITORY OF J AND K AND
ORS**

...Appellant/Petitioner(s)

Through: Ms. Maha Majeed, Assisting Counsel vice
Mr. Mohsin Qadri, Sr. AAG

Vs.

RAJA BANO AND ORS

...Respondent (s)

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER (ORAL)

10.12.2025

1. The appeal i.e. LPA No. 117/2025 sought to be filed against an order and judgment dated 20th March, 2024 passed by the learned Single Judge ["the Writ Court"] in OWP No. 1470/2016 titled "*Raja Bano and Ors vs Union Territory of J and K and Ors*", is delayed by 369 days. Hence this condonation of delay application.
2. The huge delay of 369 days has been sought to be explained by the applicants in the following manner:

That the judgment impugned in the appeal was passed on 20th March, 2024 and the matter was examined by the Administrative Department of Home as well as the Department of Law, Justice and Parliamentary affairs with regard to taking a decision for filing appeal. It is submitted that it took applicants some time to collect the relevant record from various offices and process the case for obtaining requisite permission. It is submitted that with a view to seeking the sanction for filing appeal from the Department of Law, Justice and Parliamentary

Affairs, a correspondence was made between the applicant and the Crime Branch via DPO Crime Branch Pulwama's communications dated 6th May, 2024 and 7th of May, 2024, for obtaining a detailed factual note along-with the copy of charge sheet so that the same could be forwarded to the Police Headquarter, J&K along with the impugned judgment.

The requisite documents from the Crime Branch were received on 30th May, 2025, and the matter was taken with the Police Headquarter vide DPO Pulwama letter dated 19th July, 2024. The Police Headquarter further took up the matter with the Administrative Secretary of the Department of Home vide PHQ letter dated 13th September, 2024. The matter was later taken up with the Department of Law, Justice and Parliamentary Affairs for accord of necessary sanction to appeal the judgment. The Law Department, it is claimed, examined the matter on its merit and vide its letter dated 20th March, 2025 granted sanction to file appeal, which was ultimately filed by the Learned Senior Additional Advocate General on 23rd May, 2025. This is how the delay of 369 days has been sought to be explained in the application.

The respondents have filed objections and have submitted that the reasons given by the applicants for filing the belated appeal do not constitute sufficient cause which could be said to have prevented applicants from filing of the appeal within the period of limitation.

3. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the applicants have miserably failed to explain the huge delay of 369 days for preferring the appeal.

4. From reading of the application filed by the applicants for condonation of delay, it clearly transpires that the appeal has remained without any action in every office for two to three months. The judgment was passed on 20th March, 2024, whereas the factual note was requisitioned from the Crime Branch on 6th/7th May, 2024 i.e. almost after two months. The note was received from the Crime Branch on 10th May, 2024, but the

same was forwarded to the Police Headquarter on 19th July, 2024, i.e. two months after it was received from the Crime Branch.

5. Similarly, the Police Headquarter also took more than two months to forward the matter to the Administrative Department of Home. It is evident from the communication of the Police Headquarter dated 13th December, 2024. The Department of Home refers the matter to the Department of Law, Justice and Parliamentary Affairs for accord of approval. The Department of Law, Justice and Parliamentary Affairs takes about six months to take a decision as to whether sanction to file appeal should be granted or not. The sanction was granted by the Law Department on 20th March, 2025. The applicant still took two months to prefer the appeal.

6. Viewed thus, it cannot be said that the applicants were prevented by sufficient cause from filing the LPA 117/2025 within the period of limitation. The arguments of the learned counsel appearing for the appellant that having regard to the merits of the case this Court should construe the delay liberally and condone the same subject to payment of cost is equally devoid of any merit and, therefore, cannot be accepted.

7. We have gone through the judgment sought to be challenged in the appeal and do not find the same as one which would shock the conscience of the Division Bench. The judgment is apparently correct on facts and law.

8. The Hon'ble Supreme Court in the case of **“University of Delhi vs. Union of India 2020 (13) SCC 745”**, has in Paragraphs 23 and 24 held thus:

“23. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party namely the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating “sufficient cause” to

justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Courts based on the fact situation. In the case of Katiji (Supra) the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800 per cent.

24. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public body. The entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition, in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified.

9. It is thus trite law that while considering the application under Section 5 of the Limitation Act, merely because Government is involved, a different yardstick for condonation of delay cannot be applied. The delay can only be condoned if there is a reasonable explanation and not for the reasons that the applicant is a government or public party.

10. In the instant case, as we have held hereinabove, the applicants have miserably failed to explain the huge delay of 369 days. That apart, the merits of the case are not such as would persuade us to adopt a liberal approach and entertain the appeal.

11. For all these reasons, we find no merit in the condonation of delay application, and the same is accordingly **dismissed**. Consequently, the appeal filed shall also stand **dismissed**.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

10.12.2025

"Shahid Manzoor"

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| (i) | Whether the order is reportable? | Yes/No. |
| (ii) | Whether the order is speaking? | Yes/ No. |

