

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

Reserved on: 15.09.2025

Pronounced on: 18.09.2025

CJ Court

**CM No.4469/2025
in LPA No.163/2025
CM No.4470/2025
CM No.4924/2025**

1. UT of J&K through Commissioner/Secretary to Govt. Jal Shakti (PHE) Department, Civil Secretariat, Srinagar/Jammu.
2. Director, Finance, Jal Shakti (PHE) Department, Civil Secretariat, Srinagar/Jamu.
3. Chief Engineer (PHE) Kashmir, Jal Shakti (PHE) Department, Kashmir Srinagar.
4. Superintending Engineer, Hydraulic Circle, Jal Shakti, Anantnag/Kulgam
5. Executive Engineer, PHE Division, Bijbehara.
6. Assistant Executive Engineer, PHE Division, Bijbehara.
7. Assistant Executive Engineer, PHE Sub Division, Kokernag.

...APPELLANTS(S)

Through: - Mr. Jahingeer Ahmad Dar, GA.

Vs.

1. Manzoor Ahmad Allie, Govt. Contractor S/o Gh. Mohammad R/o Bijbehara.

...CONTESTING RESPONDENT(S)

2. District Development Commissioner, Anantnag.

...PRO-FORMA RESPONDENT(S)

Through: - None.

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

JUDGMENT

OSWAL 'J'

1) This is an application seeking condonation of delay in filing the intra-court appeal against order 19.10.2022,

whereby the learned Writ Court had disposed of the writ petition bearing WP(C) No.2444/2021 titled “*Manzoor Ahmad Allie vs. Commissioner/Secretary to Govt. & Ors.*” preferred by respondent No.1, by directing the applicants/appellants to accord consideration to the claim of the petitioner (respondent No.1 herein) in respect of the payment of bills for the works excluding the works figuring at serial No.15, 16 and 17 executed by him pursuant to the orders of allotment issued by respondent No.5 and 6 (appellant No.4 and 5 herein), within a period of three months from the date of receipt of copy of the order by them.

2) Registry has reported the delay of 932 days in filing the appeal. The condonation of delay is being sought on the ground that a consideration order dated 24.01.2023 was passed by the applicants and thereafter the matter was thoroughly reviewed and it was decided to assail the order , as the record suggested that there was clear intent to misappropriate Government exchequer. Thereafter, sanction to assail the order dated 19.10.2022 was granted by the Department of Law vide letter dated 05.03.2025.

3) The cause projected for seeking condonation of delay is that the approval process required consultations,

examination of records and permission from the competent authorities.

4) It is evident from the averments made in the application that the applicants/appellants initially decided to comply the order dated 19.10.2022 passed by the learned Writ Court and pursuant thereto, even the consideration order dated 24.01.2023 was also passed. There appears to be no reason available with the applicants/appellants to file the accompanying appeal, particularly in view of the fact that the applicants decided to comply with the judgment dated 19.10.2022, which, in fact, led to the issuance of order of consideration dated 24.01.2023.

5) Another application bearing CM No.4924/2025 has been filed by the applicants/appellants for the purpose of placing on record the memorandum, article of charges and statement of imputations in respect of the disciplinary action initiated against Javid Ahmad Mir, the then Assistant Executive Engineer, Jal Shakti (PHE) Division, Bijbehara, and Ms. Nayeema Firdous, the then Assistant Executive Engineer, Jal Shakti (PHE) Division, Bijbehara, for violating Rule 9.2 and 9.3 of the J&K Financial Code Volume-I, to demonstrate that the applicants have initiated

the process for taking action against the delinquent officers.

6) The memorandum, the statement of imputations and the article of charges were issued only after the filing of the instant application accompanying the intra-court appeal but these documents cannot have any bearing so far as merits of the case are concerned, more particularly when in the article of charges, there are no allegations against respondent No.1 in respect of connivance with the delinquent officers for allotting and executing the works in question and more so when the applicants have admitted the execution of works by the respondent No.1.

7) The applicants in pursuance of the order impugned, proceeded ahead to comply the same and even passed the consideration order on 24.01.2023 and thereafter did nothing till March, 2025, when the sanction to file appeal was granted by the Department of Law, Justice and Parliamentary Affairs. As the applicants have miserably failed to demonstrate any sufficient cause for condonation of 932 days' delay, more particularly in view of the fact that the applicants initially complied the order passed by the learned Writ Court, meaning thereby they were not at all aggrieved when the order was passed by the learned Writ Court, we are not inclined to condone the delay. Reliance is

placed upon the judgment of the Hon'ble Supreme Court of India in **SHIVAMMA (DEAD) BY LRS Vs KARNATAKA HOUSING BOARD & ORS., 2025 INSC 1104**, and the relevant paras are extracted as under:

247. But the position of law is no longer this. As per Postmaster General (supra) and the subsequent decisions of this Court, **consideration for condonation of delay under Section 5 of the Limitation Act does not and cannot vary depending on the identity or status of the party, whether it be the Government, a public body, or a private litigant, so as to apply a different yardstick.**

249. Once the State chooses to litigate, it must shoulder the same responsibilities and abide by the same limitations that bind every litigant. To permit the State to evade the consequences of delay on the ostensible plea that the fault lay with individual officers would amount to diluting the rigour of limitation statutes and undermining their very object. Such an approach would not only privilege the State unjustly over private parties but would also perpetuate a culture of indifference and irresponsibility within the administration.

258. The length of the delay is 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, it appears that they want to fix their own period of limitation for 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 non-deliberate delay and in such circumstances of the case, it 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.

259. 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. We should not keep

the ‘Sword of Damocles’ hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.
(emphasis supplied)

8) In view of the foregoing reasons, we do not find any merit in this application. The same is dismissed accordingly. As a necessary corollary, the appeal is also dismissed along with connected CM(s).

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
18.09.2025
“Bhat Altaf”

Whether the **Judgment** is speaking:
Whether the **judgment** is reportable:

Yes
No

