

INTHE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(5207/2025) IN
RP 71/2025

UNION TERRITORY OF J AND K AND
ORS.

...Appellant(s)/Petitioner(s)

Through: None

Vs.

SHOUBY JAN

...Respondent(s)

Through: Mr. Rizwan Un Zaman, Advocate

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
08.12.2025

1. Vide annexure-I attached with this petition, this Court while deciding the OWP no. 1659/2018, titled Shouby Jan and Ors vs. State of J&K and others, passed the following order:

“...11. It is evident from order no. CEO/Accts/2019-2020/106 dated 28.01.2020 (Annexure R-1 to compliance report filed by respondents 7&8) that sanction has been accorded by Chief Electoral officer, J&K UT, for release of Rs. 19,49 lacs as ex gratia relief to NOKs of deceased, Muzaffar Nazir. However, Deputy District Election Officer, Anantnag vide Order dated 06.03.2020 (annexure R2 to compliance report) granted sanction to release 10.00 lacs in favour of NOKs of deceased Muzaffar Nazir. Attached with Annexure R2 is another leave/page, numbered as page no. 5 to compliance report, in which it is mentioned that Chief Election Officer, Anantnag, for incurring expenditure to the tune of Rs. 19.49 lacs as ex gratia relief to NOKs of deceased and out of the abovementioned amount, R. 10.00 lacs was disbursed/utilized among the NOKs of deceased Muzaffar Nazir through Payees Account Cheques.

So rest of the amount of Rs.9.49 lacs is yet to be released in favour of NOKs of deceased Muzaffar Nazir, which respondents are required to release.

12. In view of above, respondents are directed to release of Rs. 9.49 lacs in favour of petitioners within four weeks from the date copy of this order is served upon respondents.”

2. As the order was not complied with, it is stated by the learned counsel for the respondents that contempt petition was filed in which compliance report was sought and the petitioners instead of complying with the judgment/order passed by this Court, have filed application for

review along with the application for condonation of delay. Review is sought on the ground that there is error apparent on the face of the record, therefore, they also seek condonation of delay as the said application has been filed beyond the period of limitation.

3. The grounds as taken for condonation in the petition are that after having received the copy of the impugned order/Judgment, the matter remained under examination in Administrative Department and matter was examined by them in light of the records. In the process they were required to collect the record from various offices and also to obtain legal advice from the Department of Law, Justice and Parliamentary Affairs. Sanction to file the review petition was given by the Law Department by virtue of communication dated 16.04.2025, Therefore, they file review petition. This is all what has been stated for seeking condonation of delay.
4. Law on the subject is very clear and it has been held that, if a litigant applies to condone delay in filing appeal/petition, he/she is required to explain why appeal/petition was not filed within limitation period itself. An explanation of delay from the period when limitation ended is not sufficient. The litigant is required to explain why appeal/petition was not filed before the expiry of limitation period. Just few days back, the Supreme Court in one of its judgements dated 29th November 2024, passed by it in *Special Leave Petition (C) Diary no.48636 of 2024* titled as ***State of Madhya Pradesh v. Ramkumar Choudhary, 2024 INSC 932 : 2024 LiveLaw (SC) 953***, has made observations while dismissing the appeal seeking to condone delay of over five years in filing an appeal. Appropriate portion of the said judgement is worthwhile to be reproduced hereunder:

“4. Evidently, there was enormous delay occurred at every stage i.e., from the date of receipt of the judgment passed by the First Appellate Court to till the date of filing the second appeal by the State. The judgement was passed by the First Appellate Court on 21.08.2014 and the same was communicated by the Government Advocate representing the State to the Collector, only on 25.08.2015 i.e., after a delay of one year. Causing 3 months’ delay, by letter dated 10.12.2015, the Collector informed to the Principal Secretary, Revenue Department, about the passing of the judgment against the State and preferring a second appeal against the same.

Thereafter, the Law Department took three years' time and gave permission for filing appeal on 26.10.2018, which was sent to the Collector on 31.10.2018. Based on the said opinion, after preparation of the appeal papers, the State filed the second appeal only on 18.10.2019.

5. The legal position is that where a case has been presented in the Court beyond limitation, the petitioner has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation. In **Majji Sannemma v. Reddy Sridevi, 2021 SCC Online SC 1260**, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of this Court in **Ajay Dabra v. Pyare Ram, 2023 SCC Online SC 92**, wherein, it was held as follows:

“13. This Court in the case of **Basawaraj v. Special Land Acquisition Officer [(2013) 14 SCC 81]** while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

“15. The law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamount to showing utter disregard to the legislature.”

6. Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party.
7. Delay should not be excused as a matter of generosity, as has been said by the Supreme Court in **Union of India v. Jahangir Byramji Jeejeeboy (D) through his legal heir, 2024 SCC OnLine SC 489**. It hardly matters whether a litigant is a private party or a State or Union

of India when it comes to condoning inordinate delay. If litigant chooses to approach the court long after lapse of time prescribed under relevant provisions of law, then he cannot turn around and say that no prejudice would be caused to either side by delay being condoned. The length of delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. While considering the plea for condoning delay, the court must not start with merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by party seeking condonation. It is only if sufficient cause assigned by litigant and the opposition of other-side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay. The question of limitation is not merely a technical consideration. The rules of limitation are based on principles of sound public policy and principles of equity. The Supreme Court in plethora of cases has said that delay should not be condoned as a matter of generosity.

8. It is settled law that party seeking extension of time to condone the delay has to show sufficient cause which prevents them from approaching the Court in time. Vague grounds cannot be a sufficient cause for filing the case after delay has occasioned and on such vague grounds delay cannot be condoned. So far as the application is concerned, it is vague and does not give out a sufficient cause. Even, otherwise, having regard to the petition filed, there is no error apparent on the face of record warranting interference by this Court to review the Judgment/order. While dealing with the application seeking condonation of delay, it is also to be taken into account as to whether there is any merit in the application or not. In appropriate cases, delay can be condoned in case grounds are sufficient on which the relief is claimed.
9. In review petition, after having gone through the Judgment/order passed, petitioner has not been able to show that there is any illegality or error apparent on the face of record which requires review.

10. Since there is no merit as well as no sufficient ground has been shown by the petitioner to condone the delay. The application seeking condonation of delay is **dismissed**. As a corollary the review petition is also **dismissed**.

(VINOD CHATTERJI KOUL)
JUDGE

Srinagar
08.12.2025.
“Imtiyaz”

