

Regular List
S.No.1

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

(Through Virtual Mode)

CM No. 5117/2024 IN
RP No. 40/2024
c/w
i)CCP(S) 207/2022
ii)CCP 16/2024

Union Territory of J&K And Ors.

...Petitioner(s)

Through: Mr. Waseem Gul, GA.

Vs.

M/S New BT Enterprises

...Respondent(s)

Through: Mr. Manzoor A.Dar, Advocate.

CORAM: HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

ORDER
11.11.2025

- 01.** The present application CM No. 5117/2024 has been filed seeking condonation of delay of 935 days in filing Review Petition against the judgment/order dated 31.12.2021 passed in the writ petition WP(C) No. 1192/2021 titled '*M/s New BT Enterprises Vs. UT of J&K & Ors.*'
- 02.** The condonation of delay is sought on the ground that the matter remained under examination in the Administrative

Department and the question of filing of LPA was examined by the petitioners herein in light of the records, and in the process the petitioners herein were required to collect the records from various offices and also to obtain legal advice from the Department of Law, Justice and Parliamentary Affairs. It is averred that the examination of the matter and consideration of filing of LPA at various levels led to consumption of time. Finally, LPA along-with application for condonation of delay came to be diarized and numbered as LPA No. 196/2024, which came up for consideration before the Division Bench of this Court on 14.08.2024, however, the same was dismissed as withdrawn with liberty to the petitioners herein to seek appropriate remedy. It is further submitted that after receiving a copy of the impugned order dated 14.08.2024 passed by the Division Bench in LPA No. 196/2024, the matter remained under examination in the Administrative Department and the question of filing of Review Petition was examined in light of the records and as soon as the sanction was accorded from the Department of Law, Justice and Parliamentary Affairs, a Review Petition was filed.

- 03.** It is contended by the applicants that the delay is neither willful nor intentional, but has occurred due to unavoidable

procedural formalities and *bona fide* efforts to proceed with the matter. It is further submitted that the matter involves very important question of facts and law. The delay, as such, is required to be condoned and the review petition deserves to be decided on merits.

- 04.** The non-applicant, on the other hand, has seriously objected to the condonation of delay, submitting that the delay of 935 days is inordinate and unexplained. According to the non-applicant, no sufficient cause has been disclosed to justify condonation. The plea that lot of time was consumed in obtaining sanctions for filing LPA and now a Review Petition, cannot constitute a valid ground for condonation of delay. To buttress his submissions, learned counsel for the non-applicant, has produced number of Supreme Court judgments relevant on the subject. He has also produced the Division Bench order/judgment of this Court dated 07.05.2024 titled as '***UT of J&K & Ors. Vs. Hilal Leather and Fur House & Ors.***' passed in COD No. 7175/2023 (LPA No.237/2023), wherein it has been observed '*that the applicants have acted in a very nonchalant manner. The cavalier attitude on the part of the applicants is writ large as they have not cared a bit to even give specific dates, for example, date of receiving the certified copy of the order,*

which is conspicuous by its absence. The delay occurred is not at all explained. There is no cause shown, let alone plausible and cogent sufficient cause for seeking condonation of delay.'

05. Heard learned counsel for parties and perused the material available on file.
06. The Court would exercise its discretion in condoning or declining the delay judiciously and ensure that no serious prejudice is caused to either of the parties to the proceedings.
07. Before proceeding further and considering the reasons for justifying such a huge delay, it would be profitable to discuss the principles governing condonation of delay.
08. In '*Union of India & Anr. vs. Jahangir Byramji Jeejeebhoy (D) through his legal heir*', reported as **2024 AIR SC 1884**, the Hon'ble Apex Court has observed and held as under:-

"26. 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 appellants, 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, 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.

27. 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."

09. The Hon'ble Supreme Court in another case titled *'Basawaraj & Anr. Vs. Special Land Acquisition Officer'*, reported as 2013 (14) SCC 81, has held as under:-

"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 bonafide 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."

10. In the present case, the applicants have not furnished any cogent explanation for the delay. They have failed to satisfactorily account for the prolonged delay of more than two years. Mere references to consultations or permissions from various Departments, without concrete explanation, are insufficient. The order, which is sought to be reviewed, was delivered on 31.12.2021 in presence of counsel for both the sides, and the sanction to file LPA was accorded by the Law Department on 28.06.2024. No explanation has been offered as to why the matter was allowed to linger on for such a huge time period.
11. The Hon'ble Apex Court time and again in various judgments has held that where there is no satisfactory explanation, delay should not be condoned.

12. In a case titled '**Office of the Chief Postmaster General & Ors. vs. Living Media India Ltd. &Anr.**', reported as **AIR 2012 SC 1506**, the Hon'ble Apex Court has refused to condone the inordinate delay of 435 days in filing Special Leave Petition. Para Nos. 12 & 13 of the judgment are relevant to be reproduced as under:-

"12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay."

13. In the instant application, except for vague references to procedural steps, no convincing reason has been provided. The averments made therein do not disclose any sufficient cause that could justify condonation of delay.

14. It is not denied that mere length of delay, by itself, is not a ground to reject an application. However, such delay can be condoned only if a satisfactory and convincing explanation is furnished which inspires confidence. If the explanation offered is fanciful or vague, it would be unfair to deprive the

other party of a valuable right that has accrued in its favour by reason of the applicant's default. The Court is duty bound to protect the rights of both the parties, and no right of either party can be taken away arbitrarily or contrary to law.

15. In view of the facts and circumstances and the law laid down on the subject, the applicants herein have failed to show sufficient and reasonable cause for condoning such a huge delay, therefore, this Court is not inclined to condone the delay. The application for condonation of delay CM No. 5117/2024, is thus found without any merit or substance and as such, is, **dismissed**. Consequently the Review Petition is dismissed for suffering from the huge inordinate and unexplained delay, alongwith connected interim application(s).

16. Registry is directed to delink the connected contempt petitions i.e., **CCP(S) No. 207/2022** and **CCP No. 16/2024**, to be listed separately on **10.12.2025**, before the roster Bench.

(M. A. CHOWDHARY)
JUDGE

Srinagar
11.11.2025
Muzammil. Q