



2025:AHC:165041-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 589 of 2025

State Of Up And 4 Others

.....Appellant(s)

Versus

Uday Pratap Rai And Another

.....Respondent(s)

Counsel for Appellant(s)	: Abhishek Srivastava, Ratan Deep Mishra
Counsel for Respondent(s)	: Kailash Singh Kushwaha

Court No. - 21

HON'BLE MANOJ KUMAR GUPTA, J.
HON'BLE ARUN KUMAR, J.

(Per: Hon'ble Arun Kumar, J.)

(Ref. Civil Misc. Delay Condonation Application No. 2 of 2025)

1. Rejoinder affidavit filed today in Court is taken on record.
2. Heard Shri Anoop Trivedi, learned Additional Advocate General assisted by Shri Ratan Deep Mishra, learned counsel for the appellants and Shri Kailash Singh Kushwaha, learned counsel for the petitioner-respondent.
3. The present appeal is reported to be beyond time by 411 days.
4. The appeal has been filed by State of U.P. through Secretary, Basic Education, Government of U.P., Lucknow and others challenging the judgment and order passed by learned Single Judge dated 30.5.2024 in Writ-A No.3062 of 2019 (Uday Pratap Rai Vs. State of U.P. and 5 others) seeking quashing of the order dated 14.1.2019 passed by District Basic Education Officer, Varanasi-appellant no.4, setting aside the financial approval granted to the appointment of petitioner-respondent. The learned Single Judge has directed for re-instatement of the petitioner-respondent in service with all consequential benefits, forthwith. A further mandamus was issued to the respondents in the aforesaid writ petition not to stop the petitioner from discharging his services and to ensure payment of his regular salary accruing on a month to month basis.
5. Learned Additional Advocate General appearing for the appellants has

relied upon the averments made in the affidavit filed in support of delay condonation application alongwith the instant special appeal and has submitted that for the reasons stated therein, the delay may be condoned in the interest of justice, as the judgment and order passed by learned Single Judge suffers from various infirmities.

6. Relying on the averments made in the affidavit filed in support of delay condonation application, learned Additional Advocate General contended that the District Basic Education Officer, Varanasi by his letter dated 4.10.2024, sought legal opinion from the office of learned Chief Standing Counsel, High Court, Allahabad, pursuant to which, he provided the opinion for filing the special appeal in the matter vide letter dated 21.10.2024, issued from his office. The Director of Education (Basic), U.P. Lucknow by his letter sought permission for filing special appeal in the matter from the State Government, pursuant to which, the Special Secretary and Special Legal Remembrancer by his letter dated 18.7.2025 gave the requisite permission requesting the learned Chief Standing Counsel, High Court, Allahabad to file the special appeal. The Joint Secretary, Government of Uttar Pradesh by his letter dated 23.7.2025 requested the office of learned Chief Standing Counsel, High Court, Allahabad to file the special appeal and thereafter the present special appeal was filed. Thus, there was no deliberate or intentional delay in filing it.

7. Learned counsel representing the petitioner-respondent vehemently opposed the delay condonation application. He submits that the judgment and order of the learned Single Judge dated 30.5.2024 was served by the petitioner-respondent upon the District Basic Education Officer, Varanasi, on 19.6.2024. However, there is no explanation for non-filing of the special appeal between 19.6.2024 to 3.10.2024. He has further submitted that there is no explanation for not filing it within the prescribed period of limitation. Without the same, no explanation beyond the last date of limitation could be considered for condoning the delay. In support of the aforesaid contention, learned counsel representing the petitioner-respondent has placed reliance on the judgment of Hon'ble Supreme Court passed in Special Leave Petition (C) Diary No.48636 of 2024 (State of Madhya Pradesh Vs. Ramkumar Choudhary), decided on 29.11.2024.

8. Shri Kailash Singh Kushwaha, learned counsel for the respondent-petitioner has further submitted that the averments made in paragraph nos.3

to 7 of the affidavit filed in support of delay condonation application, even though having been sworn on the basis of perusal of records but the letters referred to therein, have not been brought on record to substantiate the averments. It has further been contended that when the judgment and order of the learned Single Judge dated 30.5.2024 was not complied with, the petitioner preferred Contempt Application (Civil) No.1783 of 2025 (Uday Pratap Rai Vs. Dr. Arvind Kumar Pathak, District Basic Education Officer). In the said contempt application, notices were issued to the opposite party, pursuant to which, the District Basic Education Officer, Varanasi filed an affidavit, on the basis of which the learned Standing Counsel appearing on his behalf prayed for a month's further time to ensure compliance of the order passed by the Writ Court. It has been pointed out by learned counsel for the petitioner-respondent that only after the Contempt Court by its order dated 15.7.2025 passed in Contempt Application (Civil) No.1783 of 2025 framed charges against Dr. Arvind Kumar Pathak, District Basic Education Officer, Varanasi, the appellants decided to file the present special appeal challenging the judgment and order of the learned Single Judge dated 30.5.2024. In view of the law laid down by the Hon'ble Supreme Court in State of Madhya Pradesh Vs. Ramkumar Choudhary (supra), the delay condonation application is liable to be rejected.

9. We have considered the submissions made by learned counsels representing the parties and perused the affidavits filed by them.

10. The petitioner-respondent has brought on record the order dated 15.7.2025 passed by Contempt Court in Contempt Application (Civil) No.1783 of 2025, which also contains the earlier order dated 16.5.2025, which is extracted hereinbelow:-

"In pursuance to the previous order passed by this Court, the opposite party has filed an affidavit which does not disclose compliance of the order passed by this Court.

The Standing Counsel prays for one month's further time to ensure compliance of the order passed by this Court.

It has been stated in paragraph No. 7 of the affidavit that steps to comply with the order of the writ Court are under process and the order passed by this Court shall be complies soon.

List again on 15.7.2025, on which date the opposite party shall either file

a compliance affidavit showing full compliance of the order passed by this Court or shall be personally present in the Court for framing of charges."

11. Perusal of the order dated 16.5.2025 passed in the contempt application shows that in paragraph no.7 of the affidavit filed by the opposite party in the aforesaid contempt application, it was stated that steps are being taken to comply with the order of the Writ Court and assurance was given that the order passed by the Court shall be complied soon. The aforesaid fact clearly shows that the appellants till 16.5.2025 were in the process of complying with judgment and order dated 30.5.2025 passed by learned Single Judge and only after the charges were framed against the District Basic Education Officer by the Contempt Court on 15.7.2025, the instant special appeal has been filed. Moreover, it is well settled that intra-departmental communication, exchange of letters etc. regarding opinion to file appeal do not constitute sufficient ground for condonation of delay, as negligent acts and lack of due diligence cannot justify seeking condonation of delay.

12. The statute allows for admitting any appeal/application after prescribed period, provided "sufficient cause" is shown for not filing it within the prescribed period. However, the explanation offered showing the sufficient cause for condoning the delay should be satisfactory and acceptable. Mere excuses, to cover up the laches, cannot be accepted for condonation of long delay.

13. The Hon'ble Supreme Court in its judgment passed in the case of State of Madhya Pradesh Vs. Ramkumar Choudhary (supra), relied upon by learned counsel for the petitioner-respondent has observed as under:-

"7..... Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. It is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not

filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause."

14. In the present case, the appellants have not disclosed any reason for not taking steps to challenge the judgment and order dated 30.5.2024 passed by learned Single Judge within the prescribed period of limitation of 30 days. In fact, the explanation given starts from the letter of the District Basic Education, Varanasi dated 4.10.2024, which is much after the limitation had expired.

15. The Hon'ble Supreme Court in its recent judgment dated 12.9.2025 passed in Civil Appeal No.11794 of 2025 (Shivamma (dead) by L.Rs. Vs. Karnataka Housing Board and others) has analyzed the provision of Section 5 of the Indian Limitation Act and has held as follows:-

"40. As such, under Section 5 of the Limitation Act, for the purpose of seeking condonation of delay in filing of an appeal or application, as the case may be, beyond the stipulated period of limitation, the delay in the filing has to be explained by demonstrating the existence of a "sufficient cause" that resulted in such delay for both the prescribed period of limitation as-well as the period after the expiry of limitation, up to actual date of filing of such appeal or application, as the case may be, or to put it simply, explanation has to be given for the entire duration from the date when the clock of limitation began to tick, up until the date of actual filing, for seeking condonation of delay by recourse to Section 5 of the Limitation Act."

"124. The burden to establish sufficient cause lies upon the party seeking condonation, and the court must be satisfied that the cause is real, bona fide, and free of negligence. Sufficiency of cause is to be determined contextually, on the totality of circumstances, with due regard to the conduct of the applicant and the prejudice caused to the opposite party. The inquiry is not mechanical but principled, resting on the dual pillars of bona fides and diligence.

125. The expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented lexibility so as not to punish innocent

litigants for circumstances beyond their control.

126. Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim interest reipublicae ut sit finis litium and destabilise the certainty that limitation law seeks to secure.

127. The expression "sufficient cause" must be construed in a manner that advances substantial justice while preserving the discipline of limitation. The courts are not to be swayed by sympathy or technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, courts have leaned towards condonation. Where negligence, want of good faith, or a casual approach is discernible, condonation has been refused."

"263. Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice."

16. In view of the law laid down by the Hon'ble Supreme Court in the case of Shivamma (dead) by L.Rs. (supra), the explanation offered by the appellants for condonation of delay in filing the instant special appeal cannot be accepted.

17. In view of the aforesaid discussion, we are of the view that the appellants-respondents have utterly failed to offer any cogent explanation for approaching this Court with delay of 411 days in filing the present appeal. The cause shown in the affidavit filed in support of delay condonation application cannot be said to be sufficient. The application seeking condonation of delay is liable to be rejected. It is, accordingly, rejected.

(Ref. Memo of Appeal)

Since the delay condonation application has already been rejected, the present appeal consequently fails and is dismissed.

September 16, 2025
Anil

(Arun Kumar,J.) (Manoj Kumar Gupta,J.)