



2025:AHC:160607-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 635 of 2025

State Of Up And 3 Others

.....Appellant(s)

Versus

Committee Of Management, Samaj Kalyan
Primary Pathshala Mangurahi, Kasiya

.....Respondent(s)

Counsel for Appellant(s)	:	C.S.C., Sheetla Prasad Gound
Counsel for Respondent(s)	:	Suresh Singh

Court No. - 21

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

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

1. Heard Shri Sheetla Prasad Gound, learned Standing Counsel for the appellants-respondents and Shri V. K. Singh, learned Senior Counsel, assisted by Shri Suresh Singh, learned counsel for the respondent-petitioner.
2. The present appeal is reported to be beyond time by 1009 days.
3. The appeal has been filed by the State of Uttar Pradesh through its Principal Secretary, Social Welfare Department, Uttar Pradesh, Lucknow and others, challenging the judgment and order of learned Single Judge dated 19.10.2022, passed in Writ-A No.17001 of 2022 (Committee of Management, Samaj Kalyan Primary Pathshala vs. State of U.P. and others), setting aside the orders of State Government dated 10.01.2022 and 21.03.2023. A further writ of mandamus has been issued to the respondents of the aforesaid writ petition to accord financial approval and release the grant for payment of salary to the teaching and non-teaching staff of the respondent institution by passing appropriate orders.
4. For condoning inordinate delay in filing the present appeal, learned Standing Counsel has referred to the affidavit filed in support of delay condonation application and submitted that for the reasons stated in it the aforesaid delay may be condoned in the interest of justice as the

impugned judgment and order of learned Single Judge suffers from various infirmities.

5. In the affidavit filed in support of delay condonation application, it has been averred that the impugned judgment and order dated 19.10.2022 was not served by the respondent-petitioner in the office of the appellants-respondents, till they received the notice of Contempt Application No.2760 of 2024 filed by the respondent-petitioner. After service of notice of the aforesaid contempt application alongwith impugned judgment and order, the District Social Welfare Officer, Kushinagar provided a detailed instructions to the Director, Social Welfare, U.P. Lucknow vide his letter dated 09.05.2024. The Directorate of Social Welfare Department, U.P. Lucknow sought legal opinion from the Chief Standing Counsel, High Court, Allahabad vide letter dated 20.12.2024. The Law Department of State of U.P. vide letter dated 27.12.2024 sent to the Chief Standing Counsel, High Court, Allahabad, sought his opinion for filing special appeal against the impugned judgment and order dated 19.10.2022. A reminder letter was again sent by the Law Department on 27.01.2025, pursuant to which, the Chief Standing Counsel, High Court, Allahabad provided his opinion through his letter dated 07.02.2025. In pursuance of the legal opinion of Chief Standing Counsel, High Court, Allahabad, dated 07.02.2025, the Planning Officer (Yojana Adhikari) was directed vide letter dated 18.02.2025, issued by the office of appellant-respondent no.2, to take appropriate action with regard to filing of special appeal against the impugned judgment and order dated 19.10.2022. By the letter dated 28.02.2025, the Special Secretary, Social Welfare, U.P. Lucknow was required to provide necessary instructions for filing special appeal against the impugned judgment and order. Thereafter, administrative approval was granted by the Law Department vide letter dated 21.07.2025, pursuant to which, the State Government vide letter dated 31.07.2025, directed the Director, Social Welfare to take appropriate action for filing the special appeal. The Directorate, Social Welfare Department, Uttar Pradesh vide letter dated 04.08.2025 requested the Chief Standing Counsel, High Court, Allahabad to file the special appeal against the impugned judgment and order of learned Single Judge, pursuant to which, the present appeal was prepared and filed.

6. The submissions made by learned Standing Counsel was opposed by learned counsel appearing for respondent-petitioner, who submitted that the writ petition was decided after hearing learned Standing Counsel, who had appeared for the respondents-appellants in it, therefore, the knowledge of impugned judgment and order cannot be denied by them. It is further submitted that respondent-petitioner, in pursuance of impugned judgment and order passed by learned Single Judge, had filed representation annexing the aforesaid order with the prayer for necessary compliance of the directions issued by the High Court. It was only after no action was taken by the appellants-respondents in the matter that the respondent-petitioner was compelled to file the Contempt Application No.2760 of 2024. It has been further contended that even after receiving notice of aforesaid contempt petition the respondents-appellants did not challenge the impugned judgment and order of learned Single Judge for more than 15 months, therefore, the appeal filed with inordinate delay of 1009 days is highly belated and the delay condonation application is liable to be rejected. In support of his contention, the learned Senior Counsel representing the respondent-petitioner, has placed reliance on a judgment of Coordinate Bench of this Court, dated 14.08.2025, passed in Special Appeal Defective No.261 of 2025.

7. We have considered the submissions made by rival sides and perused the materials available on record.

8. A perusal of the impugned judgment and order dated 19.10.2022, passed by learned Single Judge, clearly indicates that the learned Standing Counsel appearing for the State respondents was present during the hearing of Writ-A No.17001 of 2022 before the Writ Court, which is evident from paragraph no.5 of the impugned judgment, therefore, it cannot be accepted that the order of learned Single Judge was not in the knowledge of appellants-respondents. For ready reference, paragraph no.5 of the impugned judgment and order is extracted herein below:-

"5. Learned Standing Counsel appearing for the State-respondents has tried to justify the impugned order by submitting that in the absence of any existing policy of the State Government to take new schools run by private management and include them in the recurrent grant list, the

impugned order is perfectly justified. However, he is unable to refute the argument that similarly circumstanced institutions have been taken under the grant-in-aid as is evident from the orders dated 21.11.2019 and 16.10.2020 which are on record. "

9. Even if we assume for a while that the learned Standing Counsel did not inform the department about the impugned judgment, which is not the case of the appellants-respondents, the fault lies with the State machinery and it cannot take advantage of the lapses on part of the department and its officers.

10. The statement made in the affidavit filed in support of the delay condonation application that the impugned judgment and order came to the knowledge of the appellants-respondents only after receiving the notice of contempt application cannot be accepted. 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 favour the person seeking condonation of delay. There cannot be different yardsticks for condonation of delay in respect of State Government and a common litigant.

11. 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.

12. The above view finds support from the decisions of the Hon'ble Supreme Court in the cases of **University of Delhi vs. Union of India and others, 2020 (13) SCC 745** and **Post Master General and others vs. Living Media India Ltd. and another, AIR 2012 SC 1506**.

13. 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 upheld its earlier view by observing in paragraph 263 as follows:-

"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."

14. The judgment cited by learned Senior Counsel, representing the respondent-petitioner, in Special Appeal Defective No.261 of 2025, after considering various judgments of the Hon'ble Supreme Court, has held that in absence of plausible and acceptable explanation, the delay on behalf of government departments cannot be mechanically condoned.

15. 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 1009 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. Appeal

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

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

September 11, 2025

Ashok Kr.