



2025:AHC-LKO:842741-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 935 of 2005

State Of U.P.Through Secretary Education And
Another

.....Appellant(s)

Versus

Salik Ram Tewari And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	: C.S.C.
Counsel for Respondent(s)	: Aatreya Tripathi, Ramesh Pandey

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE RAJEEV BHARTI, J.**

(Order on Delay Condonation Application)

1. Heard.
2. This appeal was filed by the State of U.P. on 21.10.2005 challenging the judgement and order dated 21.04.2005 passed by learned Single Judge in Writ Petition No. 3456 (S/S) of 1996.
3. The limitation for filing special appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is 30 days vide Chapter IX Rule 10 of the Rules, 1952 read with Article 117 of the Schedule appended to the Limitation Act, 1963.
4. The application for condonation of delay in filing the appeal has not been disposed of as yet and remained pending since 2005. We are now in 2025.
5. On being asked as to whether the impugned judgement has been

complied, learned counsel for the appellant submitted that he has not been able to obtain such information.

6. Be that as it may, we have perused the affidavit in support of the application for condonation of delay. It speaks of receipts of the judgement dated 21.04.2005 in the office of DIOS, Ambedkar Nagar on 02.06.2005 through the Manager/Principal of the college in question. The affidavit does not throw light as to whether the Chief Standing Counsel office of the State Government in the High Court at Lucknow had informed the appellant about passing of the judgement dated 21.04.2005 or not. After all, there is a battery of lawyers appearing in the State of U.P. in every bench of the High Court at Lucknow and Allahabad and, therefore, this fact could have been.

7. We, accordingly, do not find any explanation for the intervening period i.e., after 21.04.2005 till 02.06.2005. After receipts as aforesaid, the DIOS wrote to the Director of Secondary Education on 14.06.2005 seeking permission for filing an appeal. He then wrote a letter on 29.06.2005 in the administrative department of the State Government. The Director of Secondary Education also requested the administrative department of the State Government vide a letter dated 12.08.2005. It is only thereafter that the Law Department granted permission to file the appeal on 31.08.2005. The movement of the file from one office desk to another is hardly an acceptable explanation, keeping in mind the parameters laid down by the Hon'ble Supreme Court in a recent judgement in ***Shivamma (Dead) by LRS vs. Karnatka Housing Board and another*** reported in ***2025 SCC OnLine 1969*** decided on 12.09.2025.

8. Thereafter, para 7 of the affidavit refers to the letter of DIOS dated

29.6.2005 to the Chief Standing Counsel for filing the appeal. The date 29.6.2005 is apparently erroneous as, the permission to file the appeal itself was granted on 31.08.2005, moreover, shockingly enough, the affidavit on record contains several blank spaces wherein the dates have not been mentioned. This is in para 7 and 8. It is so in both the copies of the paper book. This only goes to demonstrate the casual manner in which the affidavit for condonation of delay has been filed and the causal approach on behalf of the appellants who have not given any acceptable explanation for the delay of almost 5 months. Para 7 and 8, in fact, cannot be read in support of the application for condonation of delay because of absence of requisite dates for which blank spaces have been left unfilled. Though the permission to file appeal was granted on 31.8.2005, but the appeal itself came to be filed only on 21.10.2005 and there is no satisfactory explanation for the intervening period also just as there is no satisfactory explanation for condoning the delay for the period receiving the grant of permission which itself was granted belatedly without any cause being shown in this regard.

9. Hon'ble the Supreme Court has held in the case of **Shivamma (Dead) (supra)** that 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 flexibility so as not to punish innocent litigants for circumstances beyond their control. 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 destabilize the certainty that limitation law seeks to secure. 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. The appellants have not acted with reasonable diligence nor is the explanation offered by them plausible and consistent with ordinary human conduct. There is negligence, want of good faith and casual approach on their part for the reasons already noticed herein-above.

10. Hon'ble the Supreme Court has further observed that the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether 'sufficient cause' has been demonstrated for not filing the appeal or proceeding within the prescribed period of limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay. Test of 'sufficient cause' cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker

case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain. Yet another practical reason has been given by Hon'ble the Supreme Court as to why merits must not be considered at the stage of delay condonation that is it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. Therefore, we cannot consider the merits of the matter at this stage.

11. Hon'ble the Supreme Court has also considered as to whether there was any room for largesse for State lethargy and leisure under Section 5 of the Limitation Act. After considering various earlier decisions on the subject, ultimately, it opined that prior to the decision of '**Postmaster General vs. Living Media India Ltd.**' reported in (2012) 3 SCC 563, the approach was characterized by judicial sympathy towards the State and its instrumentalities in matters of condonation of delay, owing to the peculiar nature of their functioning. At the same time, there also existed contrary views such as '**State of W.B. vs. Administrator, Howrah Municipality**' reported in (1972) 1 SCC 366 and '**Lanka Venkateswarlu (D) by LRS vs. State of A.P. and ors.**' reported in (2011) 4 SCC 363 which held that, irrespective of whether the litigant is a Government entity or a private individual, the provisions of limitation would apply uniformly, and any leeway shown by the courts would also remain the same. The law as it presently stands post the decision of **Postmaster General (supra)** as

unambiguous and clear. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bonafide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant. Hon'ble the Supreme Court has further observed that on a combined reading of '**State of Rajasthan & Anr. vs. Bal Kishan Mathur (Dead) through Legal Representative**' reported in (2014) 1 SCC 592 and '**Sheo Raj Singh vs. Union of India**' reported in (2023) 10 SCC 531 it is equally manifest that the ratio of **Postmaster General (supra)** is, in essence, twofold. First, that State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. The State must be judged by the same standards as any private litigant. To do otherwise would compromise the sanctity of limitation. Secondly, that the habitual reliance of Government departments on bureaucratic red tape, procedural bottlenecks, or administrative inefficiencies as grounds for seeking condonation of delay cannot always, invariably accepted as a 'sufficient cause' for the purpose of Section 5 of the Limitation Act. If such reasons were to be accepted as a matter of course, the very discipline sought to be introduced by the law of limitation would be diluted, resulting in endless uncertainty in litigation. We have perused other parts of the said judgment including para 214 and onwards.

12. In view of the above discussion, as, not only the delay is inordinate, but the same has not been satisfactorily explained, we see no reason to condone the delay. No promptness or diligence was shown by the appellants in filing the appeal. Mere movement of file from one office to another is hardly an explanation. The application for condonation of delay

is rejected.

13. Consequently, the appeal also stands **dismissed**.

December 16, 2025

Shravan

(Rajeev Bharti,J.) (Rajan Roy,J.)