



2026:UHC:1460-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (M/B) No.131 of 2026

9 March, 2026

Nishant Singh @ Nishan Singh

--Petitioner

Versus

State of Uttarakhand and Another

--Respondents

Presence:-

Mr. Pankaj Miglani and Mr. Pulak Agarwal, learned counsel for the petitioner.

Mr. Puran Singh Bisht, learned Addl. C.S.C. and Mr. Yogesh Chandra Tiwari, learned Standing Counsel for the State of Uttarakhand.

JUDGMENT : (per Mr. Manoj Kumar Gupta C. J.)

1. The present writ petition has been filed assailing the order dated 28.11.2024 passed by learned Commissioner, Kumaon Mandal, Nainital in Misc. Appeal No. 28 of 2023 whereby the application under Section 5 of the Limitation Act filed along with the memo of appeal has been dismissed and as a consequence thereof the appeal also stood dismissed.

2. The petitioner has also assailed the order of Additional Collector/ Additional District Magistrate dated 09.06.2023 in Case No.51/47/2017 (Old Case No.51/106 of 2016), "State Vs. Nishant Singh @ Nishan Singh".



3. The appeal was filed under Rule 77 of the Uttar Pradesh Minor Minerals (Concession) Rules, 1963 against the order of the Additional Collector dated 09.06.2023. The appellate authority has observed that although the appellant alleged that he was not served with copy of the order of the Additional Collector and it was only after some time when he made inquiry, he came to know of it but since the date on which the order came to his knowledge was not disclosed, therefore, the explanation given is not acceptable.

4. Learned counsel for the petitioner submits that the Additional Collector has taken a highly technical view in rejecting the delay condonation application. He submits that since valuable rights of the petitioner are involved and, therefore, a liberal view should have been taken while considering the delay condonation application.

5. We have gone through the order of the Additional Collector and we also find that the delay condonation application has been rejected solely on the ground that date of knowledge of the order against which appeal was filed was not specifically disclosed though adequate reasons were given for the delay in filing the appeal.



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6. In our opinion, in the facts and circumstances of the present case, the appellate authority was not right in taking a technical view and should have decided the appeal on merits. Learned State Counsel also does not seriously oppose the hearing of the appeal by the appellate authority on merits.

7. Accordingly, the order of the appellate authority dated 28.11.2024 is hereby quashed. The matter is remitted back to the appellate authority for deciding the appeal on merits.

8. The petitioner shall file a copy of the instant order before the appellate authority within four weeks from today, failing which, the instant order would automatically lapse and the writ petition would stand dismissed.

9. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 09.03.2026

SS

**SUKHBANT
SINGH**

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