



2026:DHC:9075-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010484362026
+ **W.P.(C) 14863/2026 & CM APPL. 69612/2026 and CM APPL. 69613/2026**

ASHUTOSH K R PANDEY Petitioner
Through: Mr. Saaket Jain, Ms. Shivangi Anand, Mr. Sarthak Kumar Meena and Mr. Ankur Singhal, Advs.

versus

UNION PUBLIC SERVICE COMMISSION & ANR. Respondents
Through: Mr. Ravinder Agarwal, Mr. Manish Kumar Singh, Mr. Vasu Agarwal and Mr. Emmanuel Benny, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MS. JUSTICE NIVEDITA ANIL SHARMA

% **JUDGMENT (ORAL)**
07.10.2026

C. HARI SHANKAR, J.

1. This writ petition assails the following order dated 25 March 2026 passed by the Central Administrative Tribunal¹ in MA 4888/2025 as well as OA 3698/2025:

“M.A. No. 4888/2025(COD)

Heard Mr. Saaket Jain, learned counsel for the applicant, Mr. Sinha, learned counsel for respondent No. 1, and Mr. Agarwal, learned counsel for respondent No. 2.

Signature Not Verified ¹ “the Tribunal” hereinafter

Signed By: YOGESH W.P.(C) 14863/2026
KUMAR
Signing Date: 13.10.2026
14:32

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The present application has been filed seeking condonation of delay of 938 days in filing the O.A. The applicant is aggrieved by the communication/letter dated 13.08.2020 issued by respondent No. 2, whereby the applicant was required to submit an EWS certificate for the year 2017–2018. The applicant did not submit the said certificate, and consequently, his candidature was cancelled. The applicant had earlier challenged the said communication by filing O.A. No. 1148/2020 on 24.08.2020. The said O.A. was dismissed as withdrawn vide order dated 07.12.2020 passed by the Division Bench of this Tribunal. Thereafter, the applicant waited for more than five years and has again approached this Tribunal challenging the very same communication dated 13.08.2020.

In our view, the present O.A. is not maintainable inasmuch as the earlier O.A. seeking similar relief was dismissed as withdrawn. It is true that liberty was granted to the applicant to pursue his remedies in accordance with law, however, the applicant did not avail any such remedy and has again approached this Tribunal after an inordinate delay. Mr. Saaket Jain, learned counsel for the applicant, submits that the order passed in the earlier O.A. was not on merits, however, the said submission does not come to the aid of the applicant in the present case.

So far as the delay is concerned, the applicant has made the following averments in paragraph 6:

“6. That subsequently the Applicant appeared for attempts in 2021 & 2025 but did not qualify for IAS and meanwhile he continued serving in IRS. As it is said that better wisdom prevails over time, the Applicant got to know that only remedy that is available to him for fulfilment of his dream is approaching the Tribunal again since he had a good case on merits and he had already got the liberty vide order dated 07.12.2020. Though he is aware that the best course would have been to keep pursuing the OA initially filed by him but in all bonafide at that time he believed that it would be better to focus on studies than to continue with the case. This is nothing but an attempt to give one last try to get his job dream as he had already qualified for IAS under EWS category in 2019.”

The applicant is an IRS officer and, after disposal of the earlier O.A., he appeared in the Civil Services Examination in the years 2021 and 2025, but did not qualify for the IAS. Even excluding the Covid period, there is a delay of 938 days. In the absence of any



satisfactory explanation, we are not inclined to condone the delay. Mr. Jain has relied upon the decision of the Hon'ble Supreme Court in **Collector, Land Acquisition, Anantnag & Anr. v. Mst. Katiji & Ors.**², C.A. No. 460/1987, and submitted that the applicant has a good case on merits and, therefore, the delay should be condoned. The Supreme Court in **Collector Land Acquisition, Anantnag (supra)** held that the Courts should approach with a liberal and justice-oriented approach and no discrimination should be made merely because the state is filing an appeal against a decision enhancing compensation for land acquisition for public purpose. There is no dispute with regard to the proposition laid down by the Hon'ble Supreme Court in the said judgment. However, in the present case, the applicant has failed to furnish any satisfactory explanation for condonation of the inordinate delay of 938 days.

Taking into consideration the overall facts and circumstances of the case, we are not inclined to condone the delay. Accordingly, the M.A. is dismissed.”

2. MA 4888/2025 sought condonation of delay of 938 days in filing OA 3698/2025.

3. As the Tribunal has correctly observed, the only ground that the petitioner sought to urge was that he has a good case on merits and had been granted liberty to re-approach the Tribunal by an earlier order dated 7 December 2020.

4. The order dated 7 December 2020, to which reference is contained in para 6 of the application for the condonation of delay filed by the petitioner, read thus:

“Learned counsel for the applicant sought permission to withdraw the OA. Permission is accorded. O.A. is dismissed as withdrawn. It is left open to the applicant to pursue the remedies in accordance

² (1987) 2 SCC 107



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with the rules.

There shall be no order as to costs.”

Clearly, unlike what is stated in para 6 of MA 4888/2025, no liberty was reserved with the petitioner, by the order dated 7 December 2020 passed by the Tribunal in the first round of litigation, to re-approach the Tribunal.

5. There is not a whisper of an explanation for the period between 2020 and 2025, when the petitioner decided to re-approach the Tribunal.

6. Mr. Jain, learned Counsel for the petitioner, cites the often quoted decision of Supreme Court in **Katiji**, from which he has specifically adverted to Clause 2 in para 3 of the said decision which reads as under:

“Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.”

7. **Katiji** is a case which dealt with condonation of delay in proceedings instituted by the government. We deem it reproduce para 3 of the decision in its entirety thus:

“3. The legislature has conferred the power to condone delay by enacting Section 5³ of the Indian Limitation Act of 1963 in

³ Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within



order to enable the courts to do substantial justice to parties by disposing of matters on “merits”. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice — that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

“1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. “Every day's delay must be explained” does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the “State” which was seeking



condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even-handed manner. There is no warrant for according a step-motherly treatment when the “State” is the applicant praying for condonation of delay. In fact experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community, does not deserve a litigant-non-grata status. The courts therefore have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression “sufficient cause”. So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even-handed justice on merits in preference to the approach which scuttles a decision on merits. Turning to the facts of the matter giving rise to the present appeal, we are satisfied that sufficient cause exists for the delay. The order of the High Court dismissing the appeal before it as time-barred, is therefore, set aside. Delay is condoned. And the matter is remitted to the High Court. The High Court will now dispose of the appeal on merits after affording reasonable opportunity of hearing to both the sides.”

8. Clause 2 in para 3 of the judgment cannot be read in isolation.
9. *Katiji* has been noticed, significantly, in subsequent decisions of the Supreme Court. The following passages, from the most recent decision which considers *Katiji, State of Odisha v. Managing Committee of Namatara Girls High School*⁴, clarify the legal position:

“13. However, since there is a long line of decisions of this Court propounding the law that the expression ‘sufficient cause’ employed by the legislature in Section 5 of the Limitation Act,



1963 is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice and in view of the submission of Ms. Sanjana, we have considered it appropriate to consider the matter in some depth.

14. Almost four decades back, in **Collector, Land Acquisition, Anantnag v. Mst Katiji**, a coordinate Bench noting that the justifiably liberal approach which this Court has been adopting in matters instituted before it is not being followed by the courts lower in the hierarchy, mandated that a justice oriented approach is indeed called for when a 'State' seeks condonation of delay as distinguished from 'a private party'.

15. Close on the heels of **Katiji (supra)**, Hon'ble Justice M.N. Venkatachaliah speaking for the coordinate Bench in **G. Ramegowda v. Land Acquisition Officer**⁵ had referred to **Katiji (supra)** in paragraph 14 and quoted the following passage therefrom:

"When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay ...

It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

Immediately thereafter, in paragraphs 15 to 17, it was held as under:

15. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.

16. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities.



Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it.

17. Therefore, in assessing what, in a particular case, constitutes “sufficient cause” for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have “a little play at the joints”. Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process. In the opinion of the High Court, the conduct of the law officers of the Government placed the Government in a predicament and that it was one of those cases where the mala fides of the officers should not be imputed to Government. It relied upon and trusted its law officers. ...

16. **Katiji (supra)** and **Ramegowda (supra)** were consistently followed by this Court until adoption of a different and seemingly strict approach while dealing with applications for condonation of delay during the last decade and a half became discernible starting with the decision in **Postmaster General v. Living Media India Ltd**⁶, where a delay of 427 days in filing the relevant special leave petition was not condoned. **University of Delhi v. Union of India**⁷ is another decision (of a three-Judge Bench of this Court) where delay of 916 days was not condoned. While upholding the decision of the relevant high court under challenge refusing to condone the delay of 5659 days in presentation of an appeal under Section 54 of

⁶ (2012) 3 SCC 563

⁷ (2020) 13 SCC 745



the Land Acquisition Act, 1894 by the heirs of a deceased landowner, a coordinate Bench in **Pathapati Subba Reddy v. Collector(LA)**⁸ very recently reiterated that the law of limitation is founded on public policy, the object is that a legal remedy is put to an end so that no litigation remains pending for an indefinite period. It was also held, departing from the earlier view, that the merits of the case cannot be considered at the stage of considering the application for condonation of delay.

17. Indeed, one of us [Dipankar Datta] in **Sheo Raj Singh v. Union of India**⁹ authoring the judgment for a coordinate Bench adopted the view taken in **Katiji (supra)**, **Ramegowda (supra)** and a host of other decisions following the same while not interfering with an order of condonation of delay passed by the relevant high court. However, it was observed that a distinction ought to be drawn between an ‘explanation’ and an ‘excuse’ that is proffered as cause for condonation of delay. It was also emphasized that a different approach has to be adopted while this Court is considering an application for condonation of delay in presentation of an appeal/application and when it sits in appeal over a discretionary order of the high court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation has to be examined.

18. However, what perhaps remained unnoticed in any of the decisions post **Katiji (supra)** and **Ramegowda (supra)** adopting a liberal approach is the exasperation and consequent lament expressed by none other than Hon'ble M.N. Venkatachaliah, CJI. in course of authoring a brief order in **Commissioner of Wealth Tax, Bombay v. Amateur Riders Club, Bombay**¹⁰ and admonishing officers of the “revenue” in not acting with promptitude. This order was made within six years of the decision in **Ramegowda (supra)**. We can do no better than quoting the same in its entirety hereunder:

1. We have heard Shri S.C. Manchanda, learned senior counsel for the Revenue.
2. This special leave petition filed on November 16, 1993 is delayed by 264 days. For quite some time in the past, this Court has been making observations as to the

⁸ (2024) 12 SCC 336

⁹ (2023) 10 SCC 531

¹⁰ 1994 Supp (2) SCC 603



grave prejudice caused to public interest by appeals brought on behalf of the Government being lost on the point of limitation. Such observations have been made for over a few years in the past. But there seems to be no conspicuous improvement as is apparent in the present petition which is filed in November 1993. The explanation for the delay, had better be set out in petitioner's own words:

“(g) The Advocate-on-Record got the special leave petition drafted from the drafting Advocate and sent the same for approval to the Board on June 24, 1993 along with the case file. (h) The Board returned the case file to the Advocate-on-Record on July 9, 1993 who re-sent the same to the Board on September 20, 1993 requesting that draft SLP was not approved by the Board. The Board after approving the draft SLP sent this file to CAS on October 1, 1993.”

This explanation is incapable of furnishing a judicially acceptable ground for condonation of delay. After the earlier observations of this Court made in several cases in the past, we hoped that the matters might improve. There seems to be no visible support for this optimism. There is a point beyond which even the courts cannot help a litigant even if the litigant is Government which is itself under the shackles of bureaucratic indifference. Having regard to the law of limitation which binds everybody, we cannot find any way of granting relief. It is true that Government should not be treated as any other private litigant as, indeed, in the case of the former the decisions to present and prosecute appeals are not individual but are institutional decisions necessarily bogged down by the proverbial red-tape. But there are limits to this also. Even with all this latitude, the explanation offered for the delay in this case merely serves to aggravate the attitude of indifference of the Revenue in protecting its common interests. The affidavit is again one of the stereotyped affidavits making it susceptible to the criticism that the Revenue does not seem to attach any importance to the need for promptitude even where it affects its own interest.



4. The application for condonation of delay is, accordingly, dismissed. The special leave petition is, therefore, dismissed as barred by time.

(emphasis ours)

19. Reading **Ramegowda (supra)** and **Amateur Riders (supra)**, one after the other, leaves none in doubt that it did not take much time for this Court to lose hope. It is absolutely clear that the law was laid down in **Ramegowda (supra)**, following **Katiji (supra)**, with much optimism that matters would improve. Their Lordships, however, found no visible support for such optimism and the Court's patience having been tested to the extreme limit, held that there is a point beyond which even the courts cannot help a litigant even if the litigant labouring under the shackles of bureaucratic indifference is the Government.

20. We have found the State of Odisha to be utterly lethargic, tardy and indolent not only before the High Court but also before this Court. Notwithstanding that its appeal was dismissed as time-barred by the High Court, this Court has been approached by the State of Odisha four months after expiry of the period of limitation.

21. *Condonation of delay cannot be claimed as a matter of right. It is entirely the discretion of the Court whether or not to condone delay.* Despite all the latitude that is shown to a “State”, we are of the clear opinion that the cause sought to be shown here by the State of Odisha is not an explanation but a lame excuse. *No case for exercise of discretion has been set up.*

22. The applications for condonation of delay in filing the special leave petition and condonation of delay in re-filing the same, thus, stand rejected, with the result that the special leave petition stands dismissed as time-barred.”

(Emphasis supplied)

10. **Katiji**, thus, has clearly weathered many a winter, and can no longer be regarded as an insurance against delay and laches.

11. In **Mrinmoy Maity v. Chhanda Koley**¹¹, the Supreme Court held:

¹¹ (2024) 15 SCC 215



“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that the writ petitioner ought to have been non-suited or in other words the writ petition ought to have been dismissed on the ground of delay and laches itself. *An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be borne in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.*

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straitjacket formula with mathematical precision. The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.

11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. *If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, inasmuch as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in*



approaching a writ court.

12. This Court in ***Tridip Kumar Dingal v. State of W.B.***¹² has held to the following effect:

“56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. *But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court.* It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.

57. If the petitioner wants to invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhumed matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide ***State of M.P. v. Bhailal Bhai***¹³, ***Moon Mills Ltd. v. Industrial Court***¹⁴ and ***Bhoop Singh v. Union of India***¹⁵). This principle applies even in case of an infringement of fundamental right (vide ***Tilokchand Motichand v. H.B. Munshi***¹⁶, ***Durga Prashad v. Controller of Imports and Exports***¹⁷ and ***Rabindranath Bose v. Union of India***¹⁸).

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay

¹² (2009) 1 SCC 768

¹³ AIR 1964 SC 1006

¹⁴ AIR 1967 SC 1450

¹⁵ (1992) 3 SCC 136

¹⁶ (1969) 1 SCC 110

¹⁷ (1969) 1 SCC 185

¹⁸ (1970) 1 SCC 84



arose.”

13. It is apposite to take note of the dicta laid down by this Court in **Karnataka Power Corpn. Ltd. v. K. Thangappan**¹⁹ whereunder it has been held that the High Court may refuse to exercise extraordinary jurisdiction if there is negligence or omissions on the part of the applicant to assert his right. It has been further held thereunder:

“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in **Durga Prashad v. Controller of Imports and Exports**²⁰. Of course, the discretion has to be exercised judicially and reasonably.

7. What was stated in this regard by Sir Barnes Peacock in **Lindsay Petroleum Co. v. Prosper Armstrong Hurd**²¹ was approved by this Court in **Moon Mills Ltd. v. Industrial Court**²² and **Maharashtra SRTC v. Balwant Regular Motor Service**²³. Sir Barnes had stated:

‘Now, the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which

¹⁹ (2006) 4 SCC 322

²⁰ (1969) 1 SCC 185

²¹ (1874) LR 5 PC 221

²² AIR 1967 SC 1450

²³ AIR 1969 SC 329



otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy.’

8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in **Rabindranath Bose v. Union of India**²⁴ that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

9. It was stated in **State of M.P. v. Nandlal Jaiswal**²⁵ that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.”

²⁴ (1970) 1 SCC 84

²⁵ (1986) 4 SCC 566



14. Reiterating the aspect of delay and laches would disentitle the discretionary relief being granted, this Court in **Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu**²⁶ has held:

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.”

12. The Supreme Court has, therefore, clearly held that a writ court is bound to take into consideration the delay and *laches* while exercising jurisdiction under Article 226 of the Constitution of India.

13. Mr. Jain has prayed that the petitioner may be put to costs but that his OA should not be dismissed on the ground of limitation.

14. If we accept this submission, it will set an unhealthy precedent, which would become an example for all future OAs filed before the



Tribunal. Our decision could be cited by every applicant, who approaches the Tribunal in a belated manner, irrespective of the length of the delay, to contend that the delay should be condoned subject to payment of costs.

15. It is well settled the Court can advert to the merits of the matter only after condoning delay. A proceeding which is barred by limitation and laches cannot be examined on merits, if no sufficient cause to condone delay is made out.

16. We are exercising jurisdiction under Article 226 of the Constitution of India, which is governed by following parameters laid down in ***Syed Yakoob v. K.S. Radhakrishnan***²⁷:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. *A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of*

²⁷ AIR 1964 SC 477



*certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide **Hari Vishnu Kamath v Syed Ahmad Ishaque**²⁸, **Nagandra Nath Bora v Commissioner of Hills Division and Appeals Assam**²⁹ and **Kaushalya Devi v Bachittar Singh**³⁰).*

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. What can be corrected by a writ has to be an error of law; but it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but *there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record.* If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior

²⁸ (1955) 1 SCR 1104

²⁹ (1958) SCR 1240

³⁰ AIR 1960 SC 1168



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Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened.”

(Emphasis supplied)

17. Within the limitations of our jurisdiction, we find no cause to interfere with the impugned order of the Tribunal.

18. The writ petition along with the pending applications is accordingly dismissed in *limine*.

C. HARI SHANKAR, J.

NIVEDITA ANIL SHARMA, J.

OCTOBER 7, 2026/rt