



2026:AHC:206832-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 476 of 2026

State of UP and 3 others

.....Appellant(s)

Versus

Committee of Management, Saroj-Vidya Shanker Saraswati and 2 others

.....Respondent(s)

Counsel for Appellant(s)	: Anoop Trivedi, (A.A.G.), Anubhav Chandra (S.C.)
Counsel for Respondent(s)	: Ashok Khare (Sr. Advocate), Parashar Pandey, Narendra Kumar, Siddharth Khare

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.**

1. Heard Shri Anoop Trivedi, learned Additional Advocate General, assisted by Shri Anubhav Chandra, Advocate for the appellants and Shri Ashok Khare, learned Senior Counsel assisted by Shri Parashar Pandey, Advocate for respondents no. 1 and 2.
2. The present special appeal is directed against order dated 10.12.2024, whereby the learned Single Judge has allowed Writ-C No. 58956 of 2017 filed by respondents no. 1 and 2, setting aside the order dated 18.10.2017, impugned therein and has issued a direction to the Principal Secretary, Samaj Kalyan, Anubhag-2, Government of U.P., Lucknow to take the respondent-institution on grant-in-aid from the date the other similarly situated institutions, namely, Shivaji Social Welfare

Children School, Deoria and Uma Maheshwar Prathmik Pathsala, Gorakhpur have been taken on grant-in-aid.

3. The appeal is reported to be beyond time by **499 days**.
4. An application seeking condonation of delay has been filed, which is accompanied by affidavit of District Social Welfare Officer, Jaunpur annexing 36 letters in the shape of inter/intra-departmental communications and prayer has been made to condone delay taking plea that filing of appeal was delayed on account of belated permission/approval granted to the appellants for the said purpose.
5. Counter affidavit has been filed against the application denying the grounds seeking condonation of delay and in rejoinder affidavit filed against the counter affidavit, stand that since time was consumed in obtaining administrative approvals and in completing other formalities, the delay has occurred for bonafide reasons, has been reiterated by the appellants.
6. Learned Additional Advocate General appearing for the appellants, by referring to various communications on record, has made submissions that since the appeal could not be filed unless requisite approvals were received for which purpose appropriate steps were taken, whatever delay has occurred, is on account of said reasons and since day-to-day delay has been explained in the affidavit, application may be allowed taking a liberal view of the matter.
7. Further submissions have been made that, initially, the appellants were inclined to comply with the order passed by the learned Single Judge but, later on, in view of a judgment of co-ordinate Bench of this Court passed in a bunch of special appeals, leading appeal being **Special Appeal No. 213 of 2025 (State of U.P. and 3 others Vs. Ramesh Kumar Singh and 13 others)** decided on 05.01.2026, decision to file special appeal was taken inasmuch as, in the said judgment, right to claim grant-in-aid has been held to be not a fundamental right and, therefore, the order of the learned Single Judge, whereby directions have

been issued to take the respondent-institution on grant-in-aid, is liable to be set aside.

8. Shri Khare, learned Senior Counsel, has opposed the prayer for condonation of delay taking aid of the stand taken in counter affidavit, wherein lapses on the part of the appellants in allegedly seeking approvals at inter/intra-departmental level has been pointed out and by placing reliance on a judgment of this Court in Special Appeal (Defective) No. 261 of 2025 (State of U.P. and others vs Committee of Management, Pratibha Shishu Shiksha Bihar Gagra), decided on 14.08.2025, submission has been made that the grounds raised for condonation of delay have no substance and, therefore, the application is liable to be rejected.

9. We have considered the submissions made and have perused the material available on record.

10. A perusal of the affidavit supporting the application seeking condonation of delay reveals that exchange of communications in between Directorate, Legal Cell, Yojana Adhikari, Shiksha Anubhag-B, State Government, Directorate of Education, District Social Welfare Officer, Jaunpur, State Law Officer, High Court, Allahabad, Office of Chief Standing Counsel of High Court, Additional Chief Secretary of the Government, Law Department of the Government and Deputy Director, Samaj Kalyan, Varanasi dated 15.01.2025, 21.01.2025, 04.02.2025, 05.02.2025, 10.02.2025, 11.02.2025, 29.03.2025, 03.04.2025, 08.04.2025, 25.04.2025, 28.04.2025, 02.05.2025, 08.05.2025, 13.05.2025, 16.05.2025, 27.06.2025, 30.06.2025, 06.08.2025, 20.08.2025, 25.08.2025, 01.09.2025, 04.09.2025, 03.10.2025, 27.10.2025, 30.10.2025, 31.10.2025, 06.11.2025, 03.12.2025, 08.12.2025, 01.01.2026, 07.01.2026, 22.01.2026, 13.02.2026, 20.03.2026, 30.04.2026 and 04.05.2026, has been taken as a ground seeking condonation of delay.

11. The aforesaid communications are in the nature of seeking legal opinion, sending reminders, one after another by one officer to other,

taking steps to file appeal etc. etc.; however, the fact remains that the very first communication itself was made on 15.01.2025, i.e. after expiry of the period of limitation for filing the special appeal. Over a period of about 470 days thereafter, the aforesaid officials continued to exchange letters amongst themselves and it is apparent that when the judgment of this Court in **Ramesh Kumar Singh (supra)** came in existence, the appellants decided to challenge the order passed by the learned Single Judge, impugned in this appeal taking aid of the said judgment and even then the appeal was filed in May, 2026, i.e. four months after passing of the said judgment.

12. Since, presently, we are dealing with the application seeking condonation of delay in filing the instant special appeal, unless we are satisfied with the plea of sufficient cause behind approaching the Court with delay, we cannot make any observation regarding merits of the order impugned before us, as sought to be argued on behalf of the appellants based upon the decision in **Ramesh Kumar Singh (supra)**.

13. It is now well settled that intra/inter-departmental communications, exchange of letters etc. regarding opinion to file appeal, cannot and 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. The Hon'ble Supreme Court, in the case of **Basawaraj Vs. Land Acquisition Officer: (2013) 14 SCC 81**, has held as under:-

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

14. The Hon'ble Supreme Court, in the case of **Government of Maharashtra Vs. M/s Borse Brothers Engineers and Contractors Pvt. Ltd.: AIR Online 2021 SC 152**, has considered the situation where Government seeks condonation of delay and by placing reliance upon its previous decision in **Postmaster General Vs. Living M Ltd.: (2012) 3 SCC 563**, it was held as under:-

Likewise, merely because the government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in **Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563** ["Postmaster General"], as follows:

"27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process.

The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

(emphasis supplied by us)

15. The Hon'ble Supreme Court, in **Shivamma (Dead) by LRs Vs. Karnataka Housing Board: Civil Appeal No. 11794 of 2025**, decided on 12.09.2025, has elaborately dealt with the matter of condonation of

delay and while dealing with the said issue in great detail in a case where Government authorities are the applicants seeking condonation of delay, the view taken in the case of **Postmaster General (supra)** has been reiterated and reaffirmed. Relevant paragraphs of the said judgment are reproduced as under:-

"190. From the aforesaid, it is manifest that prior to the decision of this Court in *Postmaster General (supra)*, the approach was characterised 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 *Administrator, Howrah Municipality (supra)* and *Lanka Venkateswarlu (supra)* 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.

191. Even in the decisions of *Chandra Mani (supra)* and *Lipok AO (supra)* where this Court recognized the necessity for drawing a demarcation between a State or any of its instrumentalities, on the one hand and a private individual, on the other, for the purpose of Section 5 of the Limitation Act, this Court simultaneously observed that such differential treatment cannot continue for all times to come. We say so, because this Court, in the latter parts of the aforesaid decisions, conveyed an emphatic message to all the States and its instrumentalities to constitute legal cells for the timely scrutiny of its cases, to explore the possibility of settlement instead of pursuing belated claims, wherever possible and to ensure that filing of appeals or application as the case may be, is undertaken expeditiously, and the officer responsible for pursuing such action is made personally liable for lapses, if any.

ii. Shift in jurisprudence on Condonation of Delay after the decision of *Postmaster General*.

192. However, despite the aforementioned exhortations of this Court in *Chandra Mani (supra)* and *Lipok AO (supra)*, the same largely remained unheeded as the State and its instrumentalities continued to approach the courts after significant delays under Section 5 of the Limitation Act as though it were a license for indolence and institutional lethargy.

193. It was in this backdrop, particularly, the persistent disregard to the laws of limitation by the States and its instrumentalities that compelled this Court in *Postmaster General (supra)* to deviate from the earlier practice of extending unwarranted leniency governmental agencies, and to emphasize that the law of limitation binds the State no less than the ordinary litigant. The said decision is in three parts: -

(i) First, This Court held that claims of the Government and its functionaries being an impersonal machinery and inherited with bureaucratic methodology can no longer be accepted to excuse delays under Section 5 of the Limitation Act, in view of the modern technologies being used and available. The relevant observations read as under: -

“27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved

including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, **the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.”**

(Emphasis supplied)

(ii) Secondly, this Court in **Postmaster General (supra)** held that it was high time that the practice of condoning delay merely because the litigant is a government entity was done away with, and that delay should be condoned only where there is a reasonable and acceptable explanation for such delay and was accompanied by a bona fide effort. It further observed that the usual explanation of bureaucratic inefficiency and of procedural red tapism can no longer be accepted.

The relevant observations read as under: -

“29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process.” (Emphasis supplied)

(iii) **Lastly, as regards the earlier line of thought that if meritorious causes advanced by the State or any of its instrumentalities are dismissed on the ground of delay, the resultant hardship would ultimately fall upon the public exchequer and thereby the public at large, was emphatically rejected by this Court.** It held that condonation of delay is a matter of exception and cannot be treated as an anticipated privilege accruing to governmental bodies by reason of their hierarchical structure or bureaucratic methodology. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Thus, the plea of public interest cannot by any stretch be used as a carte blanche for official inaction. It observed that Government departments, far from being entitled to presumptive indulgence, are in fact under a higher obligation to discharge their functions with diligence, vigilance, and scrupulous regard to limitation. The relevant observations read as under: -

“29. [...] The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.” (Emphasis supplied)

194. In Amalendu Kumar Bera v. State of West Bengal reported in (2013) 4 SCC 52 this Court held that although a liberal approach is to be adopted in matters of condonation of delay, such indulgence cannot be extended in cases where the delay is attributable to serious laches or negligence on the part of the State. Delays as a result of the official business of the government requires its pedantic approach from public justice perspective. It held that delay should not be condoned mechanically in the absence of “sufficient cause” merely because the party happens to be the State.

(emphasis supplied by us)

16. In view of the above discussion, we are of the considered opinion that the appellants have utterly failed to offer cogent explanation for approaching this Court with a delay of 499 days in filing the present appeal. The cause shown in the affidavit cannot be said to be sufficient.

17. The application seeking condonation of delay is hereby **rejected**. Consequently, the special appeal is **dismissed** as barred by limitation.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

October 01, 2026

AKShukla/-