



2026:AHC:212045

HIGH COURT OF JUDICATURE AT ALLAHABAD

**APPEAL UNDER SECTION 37 OF ARBITRATION AND CONCILIATION
ACT 1996 DEFECTIVE No. - 166 of 2026**

Jagdish Narayan Singh And 4 Others

.....Appellant(s)

Versus

Project Director National Highways Authority And
2 Others

.....Respondent(s)

Counsel for Appellant(s) : Anup Kumar Pandey, Manish Kumar
Pandey

Counsel for Respondent(s) :

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

In Re: Delay Condonation Application No. 1 of 2026

1. The present appeal under Section 37 of the Arbitration and Conciliation Act (in short A.C. Act 1996) has been preferred with a delay of 557 days questioning the order dated 13.12.2024 passed by the District Judge, Gorakhpur in Arbitration Case No.20 of 2022, *Jagdish Narayan Singh and 4 others v. National Highway Authority of India* whereby the objection preferred under Section 34 of the ANC Act 1996 read with Section 3G(5) of the National Highway Act rejecting the objection against the award dated 16.03.2020 of the Arbitrator came to be rejected. The present appeal had been presented before this Court on 05.10.2026 and a delay condonation application supported with an affidavit of the Applicant/ Appellant No. 5/ claimant reads as under:-

"1. That the deponent is the appellant no. 5 and he is doing pairavi on his behalf as well as other petitioners in the aforesaid writ petition, as such he is well conversant with the facts of the case deposed to below.

2. That even though the appellate court has passed the impugned judgment and order dated 13-12-2024 and decree dated 23-12-2024 passed by the District Judge, Gorakhpur in Misc. Case (Arbitration) No. 20 of 2022 (*Jagdish Narayan Singh Vs. Project Director, National Highway Authority*), Arbitrator Award dated 16-03-2020 in Case No. 931 of 2017 (Computerized Case No. D201705310931 (*Jagdish Narayan Singh Vs. Union of India*) u/s 3G(5) of National Highway Authority Act, 1956 and award passed by Competent Authority/ Special Land Acquisition Officer, Gorakhpur

dated 20-07-2016 in Case No. 2/16 (State Vs. Tenure Holders (Kastkaran)) of Araji No. 998/area 0.422 Hectare situated at Mauja Kodari. Tehsil-Gola, Tappa- Haveli, Pargana Chillupar, District- Gorakhpur but the appellants could not approach before this Hon'ble Court timely due to some unavoidable circumstances and there is no any deliberate intention to cause delay in approaching this Hon'ble Court.

3. That it is very specifically stated that the deponent was suffering from chronic fever from January 2025 and he was struggling to restore his health and in such process a lot of time and money were consumed and as such he could not approach before this Hon'ble Court for filing the present appeal.

4. That the deponent after recovering from his bad health started managing the necessary expenses in filing the present appeal before this Hon'ble Court since he had already incurred a huge amount upon his treatment and he and other appellants were not in a position to manage the necessary expenses and in such process a lot of time has lapsed which is beyond the control of the deponent and other appellants.

5. That it is very specifically stated that the appellants have not accused delay intentionally and the same was occurred due to the circumstances beyond their control and which may be considered and condoned by this Hon'ble Court having the sympathetic view towards the appellants and the arbitration, appeal may be heard on merit, otherwise the appellants/applicants shall suffer irreparable loss and injury."

2. Learned counsel for the applicants/ appellants has sought to argue that the delay in filing the present appeal is unintentional beyond the control and comprehension of the applicants/ appellants, particularly when the applicant/ appellant no.5 suffered from chronic fever from January 2025 and he was struggling to restore his health and in such process, a lot of time and money was consumed and the deponent after recovering from bad health started managing necessary expenses in filing the present appeal and he had already since he had already incurred huge amount upon his treatment so the applicant/appellant no.5 was not in a position to manage the necessary expenses and thus the delay is liable to be condoned and the appeal be heard on merits.

3. I have heard the submissions of the applicants/appellants and perused the records carefully.

4. Apparently, an award came to be passed on 16.03.2020 by the Arbitrator/ District Magistrate, Gorakhpur against which objection under

Section 34 of the A.C. Act 1996 came to be preferred read with Section 3G(5) of the National Highway Act. The objection came to be rejected on 13.12.2026. The present appeal has been presented on 05.10.2026 and the same is beyond limitation, delayed by 557 days. The affidavit in support of the delay condonation application is of the applicant/appellant no. 5 while coming up with the stand that the delay occasioned on account of his ill health, wherein huge amount was spent and expenses stood incurred, pursuant whereto, post recovery, after arranging the funds, the appeal came to be filed.

5. Interestingly, the applicants, who had filed application/appeal under Section 37 of the A.C. Act 1996, are total 5 in number. No assertion in the delay condonation application has been made as to what steps were taken by applicant/appellant nos. 1 to 4. No averment is there so as to suggest that it was the applicant/ appellant no. 5, who was entrusted duty to prefer the appeal. There is also no averment regarding the financial status of applicant/ appellant nos. 1 to 4. However, the entire thrust is upon applicant/ appellant no. 5. The issue with regard to the extent of the period, which can be condoned in the appeals to be filed under Section 37 of A.C. Act 1996 is no more *res integra*, as the Hon'ble Apex Court in **Government of Maharashtra v. M/s Borse Brothers Engineers & Contractors Pvt. Ltd., AIR Online 2021 SC 152** had observed as under:-

"61. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Act, for appeals filed under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or section 13(1A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."

6. The grounds taken for condonation of the delay do not inspire the confidence of the Court and particularly they are thoroughly insufficient so as to condone the inordinate and unexplained delay of 557 days in the

background of the fact that delay is to be explained on a day-to-day basis. The nature of the fever has also not been disclosed whether it is dengue, typhoid, viral, etc. There are no medical prescriptions or documents to show the illness. Merely taking grounds without substantiating the same would not absolve a party, who seeks condonation of delay.

7. Accordingly, the Court does not find any good ground to interfere while entertaining the present appeal while condoning the delay. Thus, the delay condonation application being misconceived is liable to be rejected and the same is rejected.

Order on Appeal

Since the delay condonation application has been rejected, the appeal is dismissed.

(Vikas Budhwar,J.)

October 9, 2026

N.S.Rathour