

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 420 of 2015**

1. State of Chhattisgarh, Through the Principal Secretary Department of Higher Education, DKS Bhawan, Mantralaya Raipur Chhattisgarh, Now Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh.
2. The Director, Directorate of Higher Education, Raipur.
3. The Principal, Govt. Post Graduate Science College, Bilaspur, Chhattisgarh.

---- Appellants**Versus**

1. Ajay Nand Bahadur S/o Late Shri N.N.Bahadur, Occupation Assistant Professor, (Botany) R/o Vinoba Nagar, Near Nalanda School, Bilaspur, Chhattisgarh.
2. Guru Ghasidas University, Bilaspur, Koni, Bilaspur, Through the Registrar.
3. University Grants Commission, Through the Secretary, Bahadur Shah Zafar Marg, New Delhi.
4. Department of Education, Ministry of Human Resource Development, Through the Director, Government of India, New Delhi.

---- Respondents

For Appellants	:	Shri UNS Deo, Government Advocate.
For Respondent No. 1	:	Shri Abhishek Sinha, Advocate.
For Respondent/UOI	:	Shri Narendra Kumav Vyas, Assistant Solicitor General.
For Respondent/UGC	:	Shri Sachin Singh RAjput, Advocate.
For Respondent/University:	:	Shri Soumya Rai, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri P. Sam Koshy, J.****Judgment on Board****Per Navin Sinha, Chief Justice****09/09/2015**

1. I.A. No. 1 of 2015 has been filed to condone delay of 236 days in filing the present appeal.
2. The Learned Single Judge held that the erstwhile State of Madhya Pradesh having accepted the UGC recommendation dated 27.7.1998 under

which the Respondent No. 1 was entitled to two advance increments, no individual officer of the successor state could rescind from the applicability of the UGC notification.

3. The application for condonation of delay states that delay in filing the appeal was genuine and bonafide. Explaining the genuineness of delay, it states that after receipt of the order, the department decided to agitate the impugned order before the Division Bench. The order under appeal was passed on 11.11.2014. The pleadings are delightfully vague and silent when the Appellants received the impugned order and in what manner. Likewise, it does not state that on what date after having received the order, it was forwarded to the Law Department. It is apparent that it was only on 9.4.2015 that the officer-in-charge was appointed for pursuing the appeal who then started collecting relevant materials and seek instructions for preparation of the appeal. It is difficult to understand that what the officer-in-charge was collecting and seeking instructions if the Law Department had already recommended for filing of an appeal. If the officer-in-charge was entrusted on 9.4.2015, there is no explanation why he approached the office of the Advocate General more than five months later.

4. We have given our anxious consideration to the pleadings in the application for condonation of delay and regret to observe that the explanation put forth as sufficient cause is nothing but reiteration of official bureaucratic apathy disapproved by the Courts time and again.

5. We need not burden our order with any precedent except to refer to the following extracts from (2013) 12 SCC 649 (Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy):

"22.1 (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

22.2 (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

22.4 (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, with legal parameters."

6. More recently, in (2014) 2 SCC 422 (State of Uttar Pradesh through Executive Engineer v. Amar Nath Yadav) it has been observed at paragraph 2 as follows:

"2. This Court in *Postmaster General v. Living Media India Ltd.* has deprecated such practices on the part of the government authorities/departments in the following words:

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

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."

7. No case is made out for condoning the delay as the pleadings put forth do not constitute sufficient cause. The application for condoning delay is dismissed.

8. The appeal consequently fails.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE