

AFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Review Petition No. 84 of 2016**

1. State Of Chhattisgarh Through The Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh)
2. The Executive Engineer, Public Works Department, Division Ramanujganj, District Balrampur, Ramanujganj, Chhattisgarh
3. The Sub Divisional Officer, Public Works Department, Sub Division, Ramanujganj, District Balrampur, Ramanujganj (Chhattisgarh)
4. The Joint Director, Treasury, Accounts And Pension, Ambikapur District Surguja (Chhattisgarh)

---- **Petitioners****Versus**

Dikha S/o Late Rup Dev, Aged About 65 Years Retired Gangman, Office Of Executive Engineer, Public Works Department, Division Ramanujganj, District Balrampur Ramanujganj (Chhattisgarh) .....  
(Petitioner)

-----**Respondent**


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| For Petitioners/State: | Shri Anupam Dubey, Dy. Govt. Advocate. |
| For Non-Applicant:     | None                                   |

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**Single Bench:**      **Hon'ble Shri P. Sam Koshy, J**  
**Order On Board**

**05.7.2016**

1. Heard on IA No.1 for condonation of delay in filing the Review Petition.
2. The present Review Petition is barred by 245 days. IA No.1/2016 is an application seeking for condonation of delay. The order against which the review has been preferred is W.P.(S) No.2538/2015.
3. A perusal of the said application for condonation clearly enumerates the fact that the order against which the review is sought is an order dated 17.7.2015 and the certified copy of which was obtained within just 8 days time i.e. 24.7.2015 as is evident from Clause-3b of the said application itself.

Though the order was promptly obtained within a period of about 8 days, yet the Department took further 240 days for filing the Review Petition. No plausible explanation has been given justifying the delay caused in filing of the Review Petition except for a bald averment made in the application that due to procedural exigencies, time has been consumed. The explanation given cannot be accepted for the reason that clause-3b of the said application for condonation of delay shows that the Law and Legislative Department had granted sanction for filing of a review as early as on 7.9.2015 i.e. just about less than 2 months time from the date of order against which the review is being sought. Yet, the Review Petition even after the proper sanction was obtained was filed after more than about 6 months from the date of the sanction being accorded by the Law Department. Even, to make things worse, the records show that the Department had also appointed an Officer-in-Charge as early as on 23.2.2015 by appointing an Executive Engineer, PWD, Ramanujganj for promptly preferring the Review Petition. Even then, the Review Petition could only be filed after a further period of 3 months' time thereafter, which clearly shows a lethargic attitude on the part of the Officers of the Department and a very casual approach in taking prompt action in matters where there is specific period for compliance of the order and for preferring a Review Petition also there is a statutory period of limitation prescribed. Yet, if the present Petitioners or the Officers of the State Government do not take the matter seriously, it is for the Officers of the State Government alone who have to be blamed in this regard.

4. In the opinion of this Court, there is no proper explanation shown by the Petitioners in their application for condonation of delay and that the delay also is gross and inordinate calling for any condonation only on the ground that the

Petitioners being the State, it should be looked upon with liberally. The fact that the Respondent was aware of the order passed by this Court within 8 days from the order dated 17.7.2015, yet no prompt action was taken by the Officers concerned firstly to take a decision in filing of the review, secondly, even after obtaining the sanction from the Law Department as early as on 7.9.2015 yet, it took further more than 6 months time in filing the Review Petition.

5. Bureaucratic lethargy or the moving of files from one level to another has not been considered sufficient explanation to condone delay. Even if some latitude is required to be given to the State authorities, there must be a plausible explanation with regard to the delay. The Government cannot simply claim the status of a preferred litigant to condone delay.

6. IN (2012) 5 SCC 157 (Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai) considering the explanation of official delays setting aside the order of the High Court, it was observed as follows:-

“25. In cases involving the State and its agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the decision-making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and/or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest”.

7. In (2013) 12 SCC 649 (Esha Bhattacharjee s. Raghunathpur Nafar Academy) it was observed:-

21.13.(xiii) The State or a public body or an

entity representing a collective cause should be given some acceptable latitude.

22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:

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....

8. Declining to condone delay of 51 days in a matter under the Excise Act in (2015) 10 SCC 642 (Essar Oil Ltd. vs. Hindustan Shipyard Ltd.), considering a similar plea, it was observed as follows:-

“5. It is further stated in the rejoinder-affidavit to the counter-affidavit on behalf of the respondents that “such delay is always beyond the control of especially in government matters as the file has to be routed through several sections of the Department”. We are aware of the fact that the Government being impersonal takes longer time than the private bodies or the individuals. Even giving that latitude, there must be some way or attempt to explain the cause for such delay.”

9.. This Court is therefore not satisfied on facts pleaded to condone delay and even otherwise do not find any ground for exercise of the limited review jurisdiction in the facts of the case.

10. Therefore, in the opinion of this Court, no good ground has been made out by the Petitioners calling for condoning the delay in the filing of the Review Petition. More particularly, for the reason that it was a by-party order, it was passed on 17.7.2015 and the order also reveals that the State Counsel had given his consent for disposal of the Writ Petition on 17.7.2015.

11. Accordingly, IA No.1/2016 stands rejected. Consequently, the Review

Petition also stands rejected.

12. It is expected that the State shall do an introspection to avoid such occurrences in future. It is also expected that the Government shall also take all necessary steps to find out whether there was any deliberate in action on the part of any of its Officers and if necessary to take appropriate corrective measures against the erring Officer/Officers.

13. Let a copy of this order go the Principal Secretary, PWD, Raipur for necessary action.

Sd/-  
(P. Sam Koshy)

**JUDGE**

Priya