

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.64 of 2023

In
Civil Writ Jurisdiction Case No.11974 of 2019

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary, Health Department, Government of Bihar, Patna.
 3. The Director- in- Chief Health Services, Government of Bihar, Patna.
 4. The Civil Surgeon cum Chief Medical Officer , Sheohar, Bihar.

... .. Appellant/s

Versus

Dr. Aquil Ahmad, Son of Md. Taiyab, Resident of Village-Choty Baliya, P.O.-
Lakhaminiya, P.S.- Baliya, District- Begusarai Posted as a Incharge Medical
Officer, Primary Health Center, Piprahi, Sheohar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S.D. Yadav, AAG-9
		Mr. Braj Bhushan Mishra, AC to AAG-9
For the Respondent/s	:	Mr. Arvind Kr. Srivastava, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 16-04-2025

Re: I.A. No.1 of 2023

The appellant/State has preferred this appeal
against the impugned judgment passed in CWJC
No.11974 of 2019 dated 01.10.2020 after a delay of
more than two years.

2. While seeking condonation of delay in
preferring the appeal, there is a bland statement that



because of the Corona pandemic and administrative delay, the appeal could not be filed within time.

3. No effort has been made by the appellant/State to explain the delay after the pandemic abated.

4. Long before, the Hon'ble Supreme Court has held that administrative delay may not solely be the ground for condoning the delay in preferring the appeal.

[Refer to **Postmaster General v. Living Media (India) Ltd. : (2012) 3 SCC 563 & State of Bihar v. Deo Kumar Singh : (2022) 16 SCC 483**]

5. The Supreme Court has very clearly stated that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by the statute (Refer to **Ajay Dabra v. Pyare Ram : 2023 SCC OnLine SC 92**).

6. The Supreme Court in case of **Basawaraj v. Special Land Acquisition Officer : (2013) 14 SCC 81**, while rejecting an application for condonation of



delay for lack of sufficient cause has concluded in
paragraph 15 as follows :-

“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.”

7. In **Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir : 2024 SCC**

OnLine SC 489, the Supreme Court again held as follows :-

“24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.

25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice



if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of



the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the ‘Sword of Damocles’ hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.”

8. Similarly, in **H. Guruswamy and others v.**

A Krishnaiah Since Deceased by Lrs. : 2025 SCC

OnLine SC 54, the Supreme Court explained that while considering the plea of condonation of delay, a Court must not start with the merits of the main matter. The Court owes a duty to first ascertain the bonafides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the Court may bring into aid the merits of the matter for the purpose of condoning the delay.



9. It was also held in the same judgment that question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No Court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time.

10. Mr. S.D. Yadav, the learned AAG-9 for the State, however, pointed out that the impersonal machinery and bureaucratic methodology of the government departments must be accounted for while deciding the issue of limitation and that the State may not always be asked to explain the delay of each day.

11. The contentions of Mr. Yadav is based on the judgment of the Supreme Court delivered in **Sheo Raj Singh (Deceased) Through Legal Representatives and others v. Union of India and another (2023) 10 SCC 531.**

12. From a perusal of the limitation petition preferred by the appellant/ State, it appears that except



for the pandemic, no other reason or any good ground has been made out for condonation of delay.

13. For the aforementioned reasons, we do not consider it a fit case for condoning the inordinate and unexplained delay in preferring this appeal.

14. I.A. No.1 of 2023, therefore, is dismissed.

15. Hence, the appeal also stands dismissed on the ground of limitation.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Saurabh/Rajesh

AFR/NAFR	NAFR
CAV DATE	NA
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