

IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 718 of 2018

With

CRAN 1 of 2018 (Old CRAN 1222 of 2018)

West Bengal State Agricultural Marketing Board

Versus

The State of West Bengal and Anr.

For the Petitioner	:	Ms. Sutapa Sanyal, Adv. Mr. Debrup Bhattacharjee, Adv. Mr. Pradeep Kr. Tulsyan, Adv. Mr. Tirthankar Dey, Adv.
For the Opposite Party No. 2	:	Mr. Sandipan Ganguly, Ld. Sr. Adv. Mr. Anirban Dutta, Adv. Ms. Sharmistha Ghosh, Adv. Mr. Victor Chatterjee, Adv. Mr. Amit Ghosh, Adv. Mr. Ranit Ray, Adv.
Heard on	:	01.08.2025
Judgment on	:	13.08.2025

Ajay Kumar Gupta, J:

CRAN 1 of 2018 (Old CRAN 1222 of 2018)

1. This instant application is for condonation of delay of 1463 days in preferring the Revisional application filed by the petitioner under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'CrPC') challenging the legality, propriety and correctness of the impugned Order dated 09.04.2014 passed by the Learned Judge, 4th Special Court, Calcutta in Case No. 01 of 2013 arising out of Hare Street P.S. Case No. 172 dated 13.03.2013 under Sections 120B/420/467/468/471 of the Indian Penal Code, 1860 read with Section 13(1)(c)(d) of the Prevention of Corruption Act, 1988, pending before the Learned 4th Special Court, Bankshall Court, Calcutta for adjudication.

2. By the said impugned order, the Learned Trial Court allowed the opposite party no. 2, another Government establishment, namely, West Bengal Infrastructure Development Finance Corporation Limited, to withdraw the amount from the freezed account of the petitioner.

3. The brief facts of the case as per the petitioner are that the petitioner is a body corporate. The State Government, in exercise of

its power conferred under the provisions of Section 36 of the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972, as amended thereto, constituted and established the petitioner board by way of notification published in the Official Gazette. In view of The West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 2014, the name of the West Bengal State Marketing Board has been renamed as West Bengal State Agricultural Marketing Board, the petitioner herein.

4. The petitioner herein receives market fees from various Market Committees and such amounts collected are deposited in the West Bengal State Marketing Board Fund. The Board also invests the money in short term deposit scheme to earn interest on the idle amount.

5. Sometime in the month of November 2013, the debit transaction in respect of the account of the petitioner with the Allahabad Bank, Ultadanga Branch was frozen. Upon enquiry, it was informed to the petitioner that pursuant to the notice under Section 102 of the CrPC, issued by the Officer-in-Charge, Bank Fraud Section Detective Department, Lal Bazar in connection with Hare Street P.S. Case No. 172 dated 13.03.2013 under Sections 120B/420/467

/468/471 of the Indian Penal Code, 1860 read with Section 13(1)(c)(d) of the Prevention of Corruption Act, 1988, bank account was frozen.

6. The matter was placed before the higher authorities of the petitioner for its decision. However, in the month of June 12, 2014 it appears that a sum of Rs. 15,66,06,608/- has been withdrawn from the bank account of the petitioner and upon enquiry, it came to the knowledge of the petitioner that by the impugned order dated 09.04.2014 passed by the Learned 4th Special Court, Calcutta, the opposite party no. 2, another Government establishment, namely, West Bengal Infrastructure Development Finance Corporation Limited was permitted to withdraw the said amount from the account of the petitioner though, entire money belongs to the petitioner.

7. Ms. Sanyal, learned counsel appearing on behalf of the petitioner submitted that pursuant to the impugned order passed by the Learned Special Court, the amount of the petitioner was withdrawn by the opposite party no. 2. Feeling aggrieved and dissatisfied with the impugned order, the petitioner filed this Revisional application praying for setting aside the impugned order with a further direction upon the opposite party no. 2 to return or to

deposit the said amount of Rs. 15,66,06,608/- to an interest-bearing account and/or restrained them from utilisation said amount until disposal of the Revisional application.

8. Learned counsel further submitted that the delay of 1463 days in filing of application was unintentional. Delay occurred due to internal movement of files in different departments to take decision on the issue of filing appropriate application after consultation and deliberation with the higher officials, finally, obtaining opinion and advice from the legal department. The file was sent to the Secretary through proper channel through Joint Secretary to the Secretary at Nabanna prior to filing of the application, the authority was to be given sanction to file the application against the impugned order of the Learned Special Court. It took time for consultation, preparation of the draft application, vetting for legal compliance and filing of the Revisional application caused a delay of 1463 days, was absolutely unintentional, not deliberate and/or laches on the part of the petitioner.

9. In addition, it was further submitted that the record was misplaced during the aforesaid process of filing. Therefore, such delay was beyond the control of the officials as such it may be condoned to

do substantial justice as both the petitioner and the opposite party no. 2 are Government organisations and huge amount of money is involved.

10. Learned counsel appearing on behalf of the petitioner has placed reliance of the following judgments in order to support her contention that this Court can condone such delay, when there are two government establishments are involved and to do substantial justice. Those judgments are as under: -

i. Sheo Raj Singh (Deceased) Through Legal Rep. & Ors. Vs. Union of India & Anr.¹ Particularly in Paragraph Nos. 35, 41 and 42 thereof;

ii. State of Manipur & Ors. Vs. Koting Lamkang² particularly in Paragraph Nos. 7, 8, 9, 10, 11 and 12 thereof;

iii. State of Haryana Vs. Chandra Mani & Ors.³ particularly in Paragraph Nos. 11 and 12 thereof;

iv. Special Tehsildar, Land Acquisition, Kerala Vs. K.V. Ayisumma⁴ particularly in Paragraph No. 2 thereof;

¹ (2023) 10 SCC 531;

² (2019) 10 SCC 408;

³ (1996) 3 SCC 132;

⁴ (1996) 10 SCC 634;

v. G. Ramegowda, Major & Ors. Vs. Special Land Acquisition Officer, Bangalore⁵ particularly in Paragraph Nos. 14, 15, 16, 17 and 18 thereof;

vi. State of Nagaland Vs. Liptok AO and Ors.⁶ particularly in Paragraph Nos. 8, 9 and 15 thereof.

11. The Hon'ble Supreme Court in the above cited judgments on behalf of the petitioner categorically laid down the principles while considering the application for condonation of delay under Section 5 of the Limitation Act, 1963 from time to time as under:-

i. *The law of limitation was founded on public policy, and that some lapse on the part of a litigant, by itself, would not be sufficient to deny condonation of delay as the same could cause miscarriage of justice.*

ii. *The expression "sufficient cause" is elastic enough for courts to do substantial justice. Further, when substantial justice and technical considerations are pitted against one another, the former would prevail.*

iii. *It is upon the courts to consider the sufficiency of cause shown for the delay, and the length of delay is not always decisive while exercising discretion in such matters if the delay is properly explained. Further, the*

⁵ (1988) 2 SCC 142;

⁶ (2005) 3 SCC 752.

merits of a claim were also to be considered when deciding such applications for condonation of delay.

iv. *A distinction should be drawn between inordinate unexplained delay and explained delay.*

v. *The officer responsible for the negligence would be liable to suffer and not public interest through the State.*

vi. *It is equally common knowledge that litigants including the State are accorded the same treatment and the law is administered in an even-handed manner. When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay — intentional or otherwise — is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible.*

vii. *The expression “sufficient cause” be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay.*

viii. *In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.*

ix. *The State should not be penalized for the lapses of some of its officers and that in the particular circumstances there were sufficient grounds justifying the condonation of delay in filing the appeals. It was a matter for the discretion of the High Court.*

x. *Section 5 is to be construed liberally so as to do substantial justice to the parties. The provision contemplates that the court has to go in the position of the person concerned and to find out if the delay can be said to have resulted from the cause which he had adduced and whether the cause can be recorded in the peculiar circumstances of the case as sufficient. Although no special indulgence can be shown to the Government which, in similar circumstances, is not*

shown to an individual suitor, one cannot but take a practical view of the working of the Government without being unduly indulgent to the slow motion of its wheels.

xi. *Discretion given by Section 5 should not be defined or crystallised so as to convert a discretionary matter into a rigid rule of law. The expression “sufficient cause” should receive a liberal construction.*

xii. *No separate standards to determine the cause laid by the State vis-à-vis private litigant could be laid to prove strict standards of sufficient cause.*

xiii. *The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a decision or give appropriate permission for settlement. In the event of decision to file appeal, needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while the State is an impersonal machinery working through its officers or servants.”*

12. Per contra, Mr. Sandipan Ganguly, learned senior counsel appearing on behalf of the opposite party no. 2 vehemently opposed the prayer of the learned counsel appearing on behalf of the petitioner and submitted that 1463 days is equal to more than 4 years. Delay in filing the Revisional application for more than 4 years should not be condoned even the petitioner is Government establishment.

13. Learned senior counsel, Mr. Ganguly further submitted that the amount withdrawn by the petitioner was originally belongs to the opposite party no. 2. It was transferred by the accused person in the account of the petitioner. The Learned Special Court has rightly passed the order for withdrawing the same after hearing and full satisfaction, however, subject to furnishing of bond. Whether the money belongs to the petitioner or opposite party no. 2 would be decided after full trial and final disposal of the criminal case by the Learned Special Court.

14. It was further submitted that delay has not been explained sufficiently and properly by the petitioner. Simply, stating that it took such delay in obtaining sanction without explaining sufficient causes need to be dismissed at threshold. Question of substantial justice and deciding on merits does not arise at the stage of considering

Section 5 application. Therefore, this application for condonation of delay is liable to be rejected even though the petitioner is a State Government organisation. The Hon'ble Supreme Court time and again reiterated that 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.

15. To support of his contention, learned senior counsel has placed reliance on the following judgments as under: -

i. Postmaster General and Ors. v. Living Media India Ltd. and Anr.⁷, particularly in paragraph nos. 25 to 31 thereof;

⁷ (2012) 3 SCC 563;

ii. Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai⁸, particularly in paragraph nos. 24, 25, 27 to 30 thereof;

iii. The Inspector, Railway Protection Force v. Sk. Sirajul Islam and Anr.⁹ particularly in paragraph nos. 14 and 15 thereof;

iv. State of W.B. v. Soroj Kumar Mondal and Ors.¹⁰, particularly in paragraph nos. 1 to 3 thereof;

v. State of M.P. and Ors. v. Bherulal¹¹, particularly in paragraph nos. 4, 6 to 8 thereof;

vi. Government of Maharashtra (Water Resources Department) Represented by Executive Engineer v. Borse Brothers Engineers & Contractors (P) Ltd.¹², particularly in paragraph nos. 58 to 63, 65 to 69 thereof;

vii. Union of India v. Jitendra¹³, particularly in paragraph nos. 2 to 5 thereof;

viii. Majji Sannemma Alias Sanyasirao v. Reddy Sridevi and Ors.¹⁴, particularly in paragraph nos. 6.2 to 8 thereof;

⁸ (2012) 5 SCC 157;

⁹ (2013) 1 CCrLR (Cal) 693;

¹⁰ (2020) 7 SCC 263;

¹¹ (2020) 10 SCC 654

¹² (2021) 6 SCC 460;

¹³ (2021) 10 SCC 789;

¹⁴ (2021) 18 SCC 384;

ix. Union of India and Ors. v. Vishnu Aroma Pouching (P) Ltd. and Anr.¹⁵, particularly in paragraph nos. 2 to 7 thereof;

x. State of U.P. and Ors. v. Sabha Narain and Ors.¹⁶, particularly in paragraph nos. 1 to 6 thereof;

xi. State of M.P. Vs. Ram Kumar Choudhary¹⁷ particularly in paragraph nos. 4 to 8 thereof;

xii. H. Guruswamy & Ors. Vs. A. Krishnaiah Since Deceased by LRS¹⁸ particularly in paragraph nos. 13 to 19 thereof;

16. The Hon'ble Supreme Court in the above cited judgments on behalf of the opposite party no. 2 categorically laid down the principles while considering the application for condonation of delay under Section 5 of the Limitation Act, 1963 from time to time as under:-

“i. *A liberal concession has to be adopted to advance substantial justice, we are of the view that in*

¹⁵ (2022) 9 SCC 263;

¹⁶ (2022) 9 SCC 266;

¹⁷ 2024 SCC OnLine SC 3612;

¹⁸ 2025 SCC OnLine SC 54.

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.

ii. *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.*

iii. *What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation.*

iv. *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.*

v. *The only explanation given for the enormous delay of 1697 days in filing is stated to be that there is a public interest involved and there are certain other matters pending. All we can say that if there is public interest involved then the Government has been grossly negligent to look after the public interest. If the Government has suffered any consequences thereof monetarily or otherwise, it is always open to the Government to recover financial recompensation from the persons responsible for causing loss to the Government.*

vi. *The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.*

vii. *It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or*

inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

viii. *Why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party. 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. 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.

ix. *Repeatedly deprecating the practice of authorities coming before this Court after inordinate delays assuming as if the Law of Limitation does not apply to them. Repeatedly, reliance is placed on the judgments of vintage when technology was not easily available. No reference is made to the subsequent judgment in Postmaster General v. Living Media (India) Ltd. [Postmaster General v. Living Media (India) Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] which has dealt with the issue that consideration of the ability of the Government to file appeal in time would have to be dealt with in the context of the technology now available and merely shuffling files from one table to the other would no more be a sufficient reason.*

x. *The laws of limitation are founded on public policy. Statutes of limitation are sometimes described as “statutes of peace”. An unlimited and perpetual threat of limitation creates insecurity and uncertainty; some kind of limitation is essential for public order. The principle is*

based on the maxim “interest reipublicae ut sit finis litium”, that is, the interest of the State requires that there should be end to litigation but at the same time laws of limitation are a means to ensure private justice suppressing fraud and perjury, quickening diligence and preventing oppression. The object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.”

xi. *Discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the statutes, as if the Limitation statute does not apply to them.*

xii. *The leeway which was given to the Government/public authorities on account of innate inefficiencies was the result of certain orders of this Court which came at a time when technology had not advanced and thus, greater indulgence was shown. This position is no more prevalent and the current legal position has been elucidated by the judgment of this Court in Postmaster General v. Living Media India Ltd. [Postmaster General v. Living Media India Ltd., (2012) 3*

SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] Despite this, there seems to be little change in the approach of the Government and public authorities.

xiii. The legal position is that where a case has been presented in the Court beyond limitation, the petitioner 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.

xiv. 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.”

xv. *Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as “liberal approach”, “Justice oriented approach”, “substantial justice” should not be employed to frustrate or jettison the substantial law of limitation.*

xvi. *The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not.”*

17. Upon hearing the arguments advanced by the rival parties and on perusal of the Judgments cited by the Parties, this Court is of the opinion that even a Government organization would not be entitled to any extra benefit of condonation of delay. Suit, appeal and/or revision must be filed within the limitation period. It is settled law that if delay caused without any intentional or laches either from government department or private individual if explained sufficiently, delay can be condoned. The law of limitation undoubtedly binds everybody, including the Government.

18. Revisional application is to be filed within the period of limitation of 90 days from the date of judgment and order under challenge. It further provides the High Court may entertain the Revisional application even after the expiry of the period of 90 days provided that the Court is satisfied that the Petitioner was prevented by sufficient cause for preferring the application beyond the statutory period of limitation.

19. There must be sufficient and cogent grounds for delay and that must be explained by the Petitioner in an application as to why such enormous delay was caused in filing the instant application. It is apparent from the Section 5 of the Limitation Act itself that there is a power to condone the delay but condonation of delay can never be a mechanical and routine manner, when the law provides limitation for preferring revisional application.

20. The provision contemplates the discretionary power of the Court for condonation of delay. Even then, the discretionary power exercised judicially by recording the reasons. When there is an enormous delay of 1463 days a Court is bound to ascertain the sufficient cause and/or genuine reasons or acceptable of such

sufficient cause while considering the application for condonation of delay.

21. Learned Advocate representing the petitioner pointed out that the delay was neither due to laches nor negligence on the part of the Petitioner. She also referred several paragraphs of the application showing sufficient causes indicated therein for not filing the application within the statutory period of limitation.

22. Petitioner averred in the said application, the following reasons in filing delay, which are as follows:

Firstly, sometimes in the month of November, 2013, the debit transition in respect of the account of the petitioner with the Allahabad Bank, Ultadanga Branch was frozen.

Secondly, November, 26, 2013 Bank of the petitioner informed that pursuant to the notice under Section 102 of the Code of Criminal Procedure, debit transaction of the account of the petitioner had been frozen;

Thirdly, In the mean time on June 12, 2014 a sum of Rs. 15,66,06,608/- had been withdrawn/debited from account of the Petitioner;

Fourthly, upon enquiry, it came to knowledge that sometimes in September, 2014 by an order dated 09.04.2014 permitted to withdraw the aforesaid amount from the account of the Petitioner;

Fifthly, The said matter was referred to the Secretary, Sometime on or about November, 2014 for seeking his advice and opinion for taking legal steps as the Opposite Party No. 2 is also wholly owned by the Government of West Bengal;

Sixthly, files are sent to the Secretary through proper channel via the Joint Secretary. The Report was received by the petitioner, but somehow during transit, the file was misplaced and could not be traced despite vigorous search;

Seventhly, the file was located sometime in the month of April, 2017;

Eighthly, the authority accords sanction to proceed against the impugned order. Accordingly, instructions were given to prepare the necessary application in month of September, 2017;

Ninthly, draft application prepared by Learned Advocate and sent to the office for necessary inputs some time on November, 2017. The Legal department, after making some changes, returned to the learned advocate sometime on 3rd December, 2017;

Tenthly, on or about 3rd week of January, 2018, a conference was held with senior counsel and copy handed over to her for settling;

Eleventhly, the learned senior counsel returned the draft sometime on 2nd February, 2018 but could not file it due to the cease work by the Learned Advocates and their clerk.

Finally, the application was, ultimately, filed on April, 2018 and, thus, the delay of 1463 days in filing application was unintentional and not deliberate.

23. The reasons averred by the Petitioner in the application for delay are insufficient and not acceptable owing to non-explanation of particular dates of movement of the files from one department to other. To substantiate such delay, the petitioner should have explained the particular dates of movement of the file. Most of paragraphs merely indicated months and year without specific dates. There are so many gaps between two dates. Like the period of

referring the matter to the Secretary on or about November, 2014, misplacing file and when file was traced, has not been sufficiently explained to say the least, wholly unsatisfactory and reasons assigned are not acceptable.

24. Apart from the date of instruction to the Learned counsel for preparation of application i.e. from November, 2017 till filing of application on April, 12, 2018 was also not explained satisfactorily. Long and inordinate delay cannot be condoned in a mechanical manner. Undoubtedly, a short amount of delay can be condoned by taking a lenient view in criminal cases, especially to do substantial justice but delay in the present case is extremely inordinate of more than 4 years.

25. The Revisional Court should apply a liberal approach while considering the question of limitation in a time barred criminal revision. The court is not required to adopt a hyper-technical or pedantic approach; rather it should adopt a liberal approach and every day's delay should not be expected to be explained. Substantial Justice should be preferred over technical justice. However, long delay cannot be condoned in absence of valid or sufficient cause. The appellant fails to explain the delay in its application. The reasons

cited by the Petitioner are made in a routine manner in vague and not definite, which definitely cannot be a ground for condonation for a long delay. Undisputable long delay cannot be condoned without a sufficient cause being clearly explained.

26. In addition, the judgments relied upon on behalf of the Petitioner, definitely, would not sufficiently add the benefits to the petitioner since in those cases, a maximum 479 days delay was allowed to be condoned. Whereas, in the present case 1463 i.e. more than 4 years' delay in filing application found to be without sufficient explanation of delay. Therefore, judgments cited by the petitioner are no manner applicable in the present facts and circumstances of the case.

27. Furthermore, in a recent decision of the Hon'ble Supreme Court of India in the case of ***Pathapati Subba Reddy (Died) by L.Rs. & Ors. – Vs. – The Special Deputy Collector (LA)***¹⁹, was held at paragraph 26 as follows:

“26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

¹⁹ 2024 SCC OnLine SC 513

- (i) *Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
- (ii) *A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) *The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) *In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*
- (v) *Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*

- (vi) *Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*
- (vii) *Merits of the case are not required to be considered in condoning the delay; and*
- (viii) *Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”*

28. In the case of ***Union of India & Anr. – Vs. – Jahangir Byramji Jeejeebhoy (D) Through His LR***²⁰, the Hon’ble Supreme Court of India analyzing all the decisions on the subject reiterated the position of law expounded in the case of ***Esha Bhattacharjee – Vs. – Managing Committee of Raghunathpur Nafar Academy & Ors.***²¹. Paragraph 33 of the said case is set out hereinbelow:

“33. In the case of Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy &

²⁰ 2024 SCC OnLine SC 489

²¹ (2013) 12 Supreme Court Cases 649

Ors., (2013) 12 SCC 649, this Court made the following observations:

“21. From the aforesaid authorities the principles that can broadly be culled out are:

21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2. (ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining factsituation.

21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

21.7. (vii) *The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.*

21.8. (viii) *There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.*

21.9. (ix) *The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.*

21.10. (x) *If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

21.11. (xi) *It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.*

21.12. (xii) *The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

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.*

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.*

22.3. (c) *Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

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, within legal parameters.””*

29. In the backdrop of the above discussions, this is not a fit case to allow the condonation of delay of 1463 days. Consequently, **CRAN No. 1 of 2018 (Old CRAN 1222 of 2018)** is hereby **rejected**.

30. The Revisional application being **CRR No. 718 of 2018** also stands **dismissed** as barred by limitation.

31. In view of disposal of revisional application, all connected applications, if any, also stand disposed of.

32. Let a copy of this judgment and order be communicated to the Learned Court below for information.

33. Urgent Photostat certified copy of this Judgment be given to the parties, as expeditiously, upon compliance of all legal formalities.

(Ajay Kumar Gupta, J)

(P.A.)