GAHC010117282026

2026:GAU-AS:16716-DB

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/2249/2026

SRI AJAY AGARWALLA
SO LATE ONKARMAL AGARWALLA, RO FLAT NO 201, BLOCK C, SPANISH GARDEN, RGB ROAD, GHY, DIST KAMRUP M, ASSAM, PIN 781005

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM, PUBLIC HEALTH ENGINEERING DEPARTMENT, ASSAM SECRETARIAT, DISPUR, GHY 781006

2:THE ADDITIONAL CHIEF SECRETARY
THE GOVT OF ASSAM
FINANCE DEPARTMENT
2ND FLOOR
JANATA BHAWAN
DISPUR
GHY 781006
ASSAM

3:THE CHIEF ENGINEER (PHE) WATER
ASSAM
HENGRABARI
GHY 781036

4:THE ADDITIONAL CHIEF ENGINEER (PHE)
UPPER ASSAM ZONE
NAGAON
DIST NAGAON
PIN 782435

5:THE EXECUTIVE ENGINEER (PHE)

HOJAI DIVISION
HOJAI
DIST NAGAON 78243

Advocate for the Petitioner : MR. T SK, MR. T SK

Advocate for the Respondent : SC, FINANCE, SC, P H E

Linked Case : CRP/0/0

SRI AJAY AGARWALLA
SO LATE ONKARMAL AGARWALLA
RO FLAT NO 201
BLOCK C
SPANISH GARDEN
RGB ROAD
GUWAHATI
DIST KAMRUP M
ASSAM
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VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE SPECIAL CHIEF SECRETARY TO THE GOVT OF ASSAM
PUBLIC HEALTH ENGINEERING DEPARTMENT
ASSAM SECRETARIAT
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2:THE ADDITIONAL CHIEF SECRETARY
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DIST NAGAON
DIST NAGAON
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5:THE EXECUTIVE ENGINEER (PHE) HOJAI DIVISION
HOJAI
DIST NAGAON
PIN 782435

Advocate for : MD TAIZUDDIN SK
Advocate for : appearing for THE STATE OF ASSAM

-BEFORE-

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

13.11.2026
(K. Goswami, J)

We have heard Mr. T. Sk, learned Advocate for the applicant and Mr. P.N. Goswami, learned Additional Advocate General, Assam assisted by Mr. I. Kalita, learned Advocate for the respondent Nos. 1, 3, 4 & 5.

2. By way of this interlocutory application filed under Section 5 of the Limitation Act, 1963, the applicant seeks condonation of delay of 117 days in preferring the connected appeal against the judgment and order dated 03.11.2025, passed by a learned Single Judge of this Court in WP(C) No.4454/2025.

3. The applicant has sought condonation of the delay in filing the connected writ appeal, on the grounds that the applicant was suffering

from chronic heart ailments and was undergoing medical treatment at Apollo Clinic, Guwahati from 02.12.2025 to 28.01.2026. The attending doctors had advised him to take complete rest for a period of two months in view of his medical condition. It has further been stated that the marriage of his only daughter was solemnized on 01.11.2025 at Siliguri, West Bengal and subsequent thereto, the applicant was diagnosed with chronic heart problems requiring continuous medical care, precautions and supervision. It is the further case of the applicant that he came to learn about the dismissal of the writ petition from his engaged counsel only in the first week of March, 2026. Upon recovery to some extent, he contacted his erstwhile counsel, who returned the case brief to him on 26.03.2026. Thereafter, he engaged the present counsel and handed over the relevant case records on 27.03.2026, whereupon the accompanying writ appeal was filed on 01.04.2026. It is, thus, contended that the delay of 117 days in preferring the writ appeal occurred due to circumstances beyond his control, particularly his prolonged illness and medical condition and that the delay was neither deliberate nor intentional. Accordingly, the applicant has prayed for condonation of the aforesaid delay in the interest of justice.

4. *Per contra*, learned Advocate appearing for the respondents objected to the condonation of delay on the ground of the same being not sufficiently explained.

5. We have considered the grounds assigned by the applicant in support of the prayer for condonation of delay and have perused the averments made in the instant application.

6. It appears that the applicant has sought to explain the delay primarily on account of his chronic heart ailments, for which he had undergone medical treatment and was advised by the attending doctors to take rest for a period of two months. The applicant has also explained the circumstances in which he came to know about the dismissal of the writ petition, the subsequent return of the brief by his erstwhile counsel and the engagement of the present counsel, culminating in the filing of the writ appeal on 01.04.2026.

7. Having regard to the nature of the medical condition pleaded by the applicant and the sequence of events narrated in the application, we are of the considered view that the explanation furnished for the delay deserves consideration. It is well settled that the expression "sufficient cause" occurring in Section 5 of the Limitation Act, 1963, is required to be construed in a justice-oriented manner so as to advance substantial justice, rather than defeat a *lis* on technical grounds, provided the explanation furnished is *bona fide* and does not disclose gross negligence or deliberate inaction. We are, therefore, inclined to accept the explanation furnished by the applicant.

8. Resultantly, in the interest of justice, the delay of 117 days in filing the connected appeal is hereby condoned.

9. The interlocutory application stands allowed and disposed off.

10. Registry to process the connected appeal and list the same on **11.01.2027**, under the appropriate heading.

JUDGE **CHIEF JUSTICE**

Comparing Assistant