

GAHC010269482024



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

Case No. : I.A.(Civil)/1393/2025

THE UNION OF INDIA AND ORS
REP. BY THE SECRETARY, MINISTRY OF RAILWAYS, RAIL BHAWAN,
RAISINA ROAD, NEW DELHI-110001.

2: NORTH EAST FRONTIER RAILWAY
REP. BY THE GENERAL MANAGER (CONSTRUCTION)
MALIGAON
GUWAHATI-12

3: THE DEPUTY CHIEF ENGINEER
CONSTRUCTION
NORTH EAST FRONTIER RAILWAY
ALIPURDUAR JUNCTION
WEST BENGAL.

4: THE SENIOR ACCOUNTS OFFICER
NEW JALPAIGURI
CONSTRUCTION
NORTH EAST FRONTIER RAILWAY
WEST BENGAL-734007

VERSUS

SUBHASHIS CHAKRABORTY
S/O/ SRI SATIRANJAN CHAKRABORTY, R/O. B.T. ROAD, BONGAIGAON, P/S.
AND P/O. BONGAIGAON, DIST. BONGAIGAON, ASSAM, PIN-783380.

Advocate for the Petitioner : MRS. R DEVI,

Advocate for the Respondent : MR. N SARKAR, MR. N N B CHOUDHURY

IN
WA No. 15268/2024
(Filing Number)
WITH
IA(c) No. 15269/2024
(Filing Number)

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

17-03-2026

(Kalyan Rai Surana, J)

[1] Heard Mrs. R. Devi, learned CGC for the applicants and Mr. N.N.B. Chodhury, the learned counsel for the respondent.

[2] The learned counsel for the respondent has submitted at the outset that in the connected unregistered memo of writ appeal, the applicants have not annexed the affidavit-in-reply filed by the petitioner. He has produced his copy of the said affidavit.

[3] It is submitted that the said affidavit is very relevant, as the respondent had taken a stand before the learned Single Judge that as the Tender was issued on 13.12.2019, and the *Letter of Acceptance* was issued on 04.03.2020 and the *Contract Agreement* was signed on 28.08.2020, the GCC, 2019, is applicable.

[4] Moreover, on such statement being made, on a cursory perusal of the memo of appeal, we take notice of the fact that even the *Contract Agreement* is not complete. Although the stand taken by the respondent in their affidavit-in-opposition in the writ petition was that GCC, 2019 applied, but yet no documents have been filed to show the applicability of the GCC-2014 and/or GCC-2019. Although as per the materials available in the connected

unregistered memo of appeal, the *Letter of Acceptance* of the contract dated 04.03.2020 and the *Contract Agreement* was signed subsequent on 28.08.2020, there is no material in the connected memo of appeal to show how GCC, 2014 would be applicable when GCC, 2019 had already come into force and also referred to in the impugned order.

[5] Therefore, notwithstanding that the court is presently dealing with an application for condonation of delay of 243 days, but on examination of the connected unregistered memo of appeal, complete material documents have not been produced, the Court is of the considered opinion that the delay of 243 days, ought not to be condoned. The respondents are aware of the reasons given in the impugned order passed by the learned Single Judge and yet in the connected memo. of appeal incomplete documents are annexed.

[6] Therefore, on two grounds, firstly, that the delay is not sufficiently explained to show what prevented the applicants from filing the appeal and because it appears from the statement made by the learned counsel for the respondent that in the meantime, the respondent had initiated a contempt petition and that only on receipt of the notice in the contempt petition, the present appeal has been filed. Secondly, the practice of annexing incomplete set of documents and non-annexing of affidavit by the respondent in the writ proceeding, has to be deprecated. There is no reason to withhold GCC, 2019 as found applicable and non-applicability of GCC, 2014, have been referred to in the impugned order.

[7] Therefore, for suppression and/or withholding of material documents, no ground is made out to condone the delay of 243 days. The said delay is not condoned and the application is dismissed.

[8] Consequently, the connected unregistered memo of appeal and another

interlocutory application are also dismissed.

JUDGE

JUDGE

Comparing Assistant