



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 3870 OF 2022
IN FAST/40375/2019 WITH CA/3871/2022
WITH CA/12812/2025**

1. Godawari Marathwada Irrigation Development Corporation, Through The Ex. Engineer Latur, LMI, Latur.
2. The State of Maharashtra
Through the Collector, Latur. ...Applicants

Versus

Phasmiya S/o. Balumiya Shaikh,
Age. 32 years, Occ. Ariculture,
R/o. Kamatha, Tq. Ausa, Dist. Latur. ...Respondent

...

Advocate for Applicant No. 1 : Ms. Bharaswadkar Patil Kalpalata
AGP for Applicant No. 2 : Mr. V.S. Badakh
Advocate for Respondent : Mr. Navin Shah i/b. Mr. Natu Sharad V.

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CORAM : RAJNISH R. VYAS, J.

DATE : 25TH FEBRUARY, 2026

PER COURT :

1. This is an application for condonation of delay of 3613 days in filing an appeal challenging the judgment and award passed by the reference Court in LAR No. 2259/1990 dated 28.10.2009.
2. Heard respective counsels.

3. Learned counsel for the applicant i.e. Godavari Marathwada Irrigation Development Corporation through the Executive Engineer, has contended that since the applicant was not party in the original proceedings, the delay has been caused.

4. To buttress her contention, she submitted that LAR No. 2259/1990 was decided by Adhoc Additional District Judge – 2, Latur, on 28.10.2009. In contrast, the Act, i.e., the Maharashtra Godavari Marathwada Irrigation Development Corporation, came into force in the year 1998, under which the Maharashtra Godavari Marathwada Irrigation Development Corporation was constituted by government resolution no. 1098 dated 25.09.1998. The corporation thereafter was brought into force and commenced functioning with effect from 01.10.1998. As a result, the then officers, such as the Executive Engineer, Minor Irrigation, Division Latur, were brought under the control and establishment of the Corporation.

5. According to her, the impugned award is executable against the corporation; and it was a classic case of non-rejoinder of a necessary party. She further contended that the delay is not at all intentional but bona fide. Since it was a state, some leniency can be shown, as on many

occasions, officers attached to the government, in collusion with the claimants, delay the matter.

6. According to her, if the delay is condoned, no prejudice would be caused to the claimant, and the matter can be decided on the merits. Per contra, if delay is not condoned, a meritorious matter would be thrown out. She further submitted that the State is, in fact, an impersonal machinery and, therefore, the delay it in fact cannot be said to have caused. According to her, in several matters, not only this Court but also the Hon'ble Apex Court has condoned the delay, and in many cases, the delay was of 21 years. She also submitted that it is not the length of the delay that is required to be taken into consideration, but the sufficiency of cause, which is important. She has relied upon various judgments, which would be dealt with in the later part of the judgment.

7. learned counsel for the claimant submitted that there is absolutely no explanation for the delay in filing the application and just because the applicant is a statutory body, no special treatment can be awarded. He has also brought to my notice the law laid down by the Hon'ble Apex Court, which shall be dealt with hereinafter.

8. I have thus pondered over the issue and have gone through the record of the case.

9. To decide the application for condonation of delay apart from the contentions raised by the learned counsel for the applicant, as discussed supra, the pleadings in the application will also have to be seen. Paragraph No. 3 of the application is relevant, which is reproduced as under :

“3. After the passing of the judgment and decree, when the Minor Irrigation was informed about the judgment and order, on 28.10.2009, a proposal of Appeal was sent to the Law and Judiciary, Govt. of Maharashtra. Thereafter, a copy of the judgment was sent to the Office of Godavari Marathwada Irrigation Development Corporation, as the Office is under its control and from which the payment is to be made. The legal advisor gave an opinion to file an appeal, and then the Corporation allotted the matter to the panel Advocate. The Counsel perused the papers, discussed the matter, and asked for some documents for drafting. Then, Counsel gave a letter regarding the Court fees

and expenses. Then demand was made, and arrangements were made. Thereafter, the Certified copies were received from the Government's office. Pleader. Thus, a delay occurred as the Applicant was not a party and, after gaining knowledge of the Judgment and Order, had to spend time processing the papers, obtaining legal opinion, addressing the lawyer's queries, supplying the required papers, and making arrangements for Court fees. The delay is not intentional. There is sufficient cause within the meaning of Section 5 of the Limitation Act.”

10. If the pleadings are perused, it would reveal that the judgment impugned was passed on 28.10.2009, which was informed to the applicant. Consequently, a proposal for appeal was sent to the Law and Judiciary Department, Government of Maharashtra. The copy of the judgment was then forwarded to the applicant, and the legal advisor advised filing an appeal. Thereafter, the matter was allotted to the panel Advocate by the Corporation. Learned counsel, perused the papers, discussed the matter and asked for some documents and also gave a letter regarding the court fees and expenses. The funds were requested, and

accordingly, they were arranged. After receipt of certificate copies from the office of the Government Pleader, the delay has occurred.

11. At this stage, it is necessary to mention here that none of the documents are filed on record to substantiate the pleadings made in the application. Further, no dates are given for when the applicant came to know, when the papers were forwarded, when the letter was issued, etc. Thus, it can be said that what has been advanced is not an explanation, but what is given is an excuse.

12. At this stage, it is necessary to discuss the judgment cited at bar by learned counsel for the applicant. Learned counsel for the applicant relied upon the judgment in the case of **Esha Bhattacharjee Versus Managing Committee of Raghunathpur Nafar Academy and others, reported in 2013 AIR (SCW) 6158**. More particularly, paragraph 15. The gist of the aforesaid judgment is that there should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application. The sufficient cause should be understood in its proper spirit. Substantial justice is paramount and pivotal, and technical considerations should not be given undue or uncalled-for emphasis. 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.

Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact. Adherence to strict proof should not affect public justice or public mischief, because the courts are required to be vigilant so that, in the ultimate event, there is no real failure of justice. The concept of a liberal approach has to encapsulate the notion of reasonableness, and it cannot be allowed a totally unfettered free play. The conduct and attitude of the parties are important.

13. Learned counsel for the applicant also relied upon the law laid down by the Hon'ble Apex Court in the case of **Collector, Land Acquisition, Anantnag and another Versus Mst. Katiji and others reported in 1987 AIR (SC) 1353**. The gist of which is that it cannot be said that every day's delay must be explained, and adopting a pedantic approach, would not be proper. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. There is no presumption that delay is occasioned deliberately. A litigant does not stand to benefit by lodging an appeal late. Refusing to condone delay can result in a meritorious matter being thrown out. The judiciary is respected not for its power to legalise injustice on technical grounds, but for its capacity to remove injustice.

14. She also relied upon the law laid down by **G. Ramegowda, Major and Others Versus Special Land Acquisition Officer, Bangalore, with connected matter, reported in AIR 1988 Supreme Court 897**. The ratio of which is that the litigation to which the government is a party is yet another aspect that perhaps cannot be ignored. If appeals brought by the Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest.

15. Learned counsel for the applicant also relied upon the law laid down by the Hon'ble Apex Court in the case of **State of Manipur and others Versus Kotling Lamkang, reported in (2019) 10 SCC 408**. More particularly, paragraphs nos. 8 and 9. The gist is the impersonal nature of government, where individual officers may fail to act responsibly. It is also a fact that must be taken into consideration, and the said would result in injustice to the institutional interests of the State. If the State's appeal is lost, it will not usually affect the individual.

16. Per contra, learned counsel for the claimant relied upon judgment in case of **State of Madhya Pradesh and others Versus Bherulal, reported in (2020) 11 SCALE 688**, more particularly paragraph no. 3. In paragraph no. 3 of the judgment quoted is the

observation of the Hon'ble Apex Court in the case of **Chief Post Master General and Others Versus Living Media India Ltd. and another, reported in (2012) 3 SCC 563**. Paragraph no. 13 is reproduced below :

“13. In our view, 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 a 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 government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that the Department offered no proper explanation for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any

acceptable and cogent reasons sufficient to condone such a huge delay.”

17. The gist of the aforesaid judgment is that no special treatment is required to be given to the government, and government departments are under a special obligation to ensure that they perform their duties with diligence and commitment.

18. Learned counsel for the claimant has also relied upon a judgment delivered by this Court in the case of **State of Maharashtra Versus Digambar Gunderao Kulkarni**, dated 15.01.2018, in Civil Application No. 15013/2015 in First Appeal No. 29820/2015. The gist is that while some latitude can be shown to impersonal agencies like the Government, it does not grant officers a license to shirk their responsibility for expedition action. The law of limitation applies to citizens and governmental authorities alike.

19. No doubt, the judgments cited by learned counsel for the applicant lay down the principle that, normally, delay should be condoned and the Court should not adopt a technical approach. However, the fact remains that the question for the Court is as to whether the delay has been adequately explained or not.

20. At the cost of repetition, it is mentioned that it is not the length of the delay but the sufficiency of cause that is required to be looked into. The difference between excuse and an explanation is also required to be taken into consideration. The explanation, so far as the case in hand is concerned, means giving the necessary details so that the court can conclude whether the explanation offered is just and proper . if it is not given then it would not be an explanation but amount to giving excuse.

21. At this stage, it is necessary to discuss the law laid down by the Hon'ble Apex Court in the case of **Shivamma (dead) by Lrs Versus Karnataka Housing Board and others, reported in 2025 LiveLaw (Supreme Court) 899**. In a lucid judgment, the Hon'ble Apex Court has dealt with the issue of condonation of delay under various heads. Paragraph no. 228, which deals with “public policy, viz-a-viz public interest in matters of delay on the part of the State or any of its instrumentalities”, is relevant. Paragraphs nos. 228 and 235 are reproduced below :

“228. Limitation laws are themselves grounded in public policy, as already discussed in the preceding paragraphs of this judgment, it is based on the maxim

‘interest reipublicae ut sit finis litium’, i.e., “it is for the general welfare that a period be put to litigation”. Therefore, public interest is better served by timely governmental action than by condoning repeated lapses. State cannot simultaneously seek to represent the interest of the public and yet consistently fail to protect that very interest by allowing limitation periods to lapse.

229. *Public interest is best served by ensuring efficiency and diligence in governmental functioning, rather than by condoning its lapses as a matter of course. Thus, a liberal inclination towards the State or any of its instrumentalities, in matters of condonation of delay, cannot be adopted, merely on the presumption that, if the delay is not condoned, public interest runs the risk of suffering, by a meritorious matter being thrown out. Public interest lies not in condoning governmental indifference, but in compelling efficiency, responsibility, and timely action.*

230. *To permit condonation of delay to become a matter of course for the Government would have the deleterious effect of institutionalising inefficiency. It would, in substance, incentivise indolence and foster a culture where accountability for delay is eroded. If the State is assured that its lapses will invariably be excused under the rubric of “public interest,” there would remain little incentive for its officers to act with vigilance or for its instrumentalities to streamline procedures for timely action. The consequence would not be the advancement of public interest but rather its betrayal.*

231. *Public interest, therefore, does not lie in condoning governmental negligence, but in compelling efficiency, responsibility, and timely decision-making. This Court has time and again emphasised that liberal condonation of delay on behalf of the State, merely on the ground that refusal might cause the dismissal of a potentially meritorious matter, is a misplaced proposition. Public interest is not synonymous with the*

cause of the Government; it is, instead, synonymous with the enforcement of the rule of law, certainty in legal rights, and an administrative machinery that functions with diligence and accountability.

232. It must, therefore, be underscored that the guiding principle is not the protection of governmental indifference but the promotion of responsible governance. The State is under a higher duty to act in time, for in every matter it litigates, it does so not in its private capacity, but as the trustee of the people's interest. Hence, repeated indulgence in condoning delays on grounds of bureaucratic inefficiency would amount to eroding the very object of limitation statutes, which are enacted in every civilised jurisdiction for the sake of finality, certainty, and public order.

233. Any other view, would invariably defeat the sound public policy embodied in the [Limitation Act](#) and fail in enthusing efficiency in administration, and bring a balance between accountability and autonomy of action, It would result in giving immunity or carte

blanche power to act as it pleases with the public at whim or vagary and inevitably spell doom all over the collective responsibility that the State and its instrumentalities are entrusted with. Thus, we are of the considered opinion that delay cannot be condoned, merely because not doing so would result in non-suiting the State and thereby run the ostensible risk of public interest suffering. Such by no stretch, can be the sole consideration for the purpose of [Section 5](#) of the Limitation Act, as to do so would be to ignore the provision of [Section 3](#) and the overarching public policy of giving quietus to lis, that forms the bedrock of the [Limitation Act](#).

234. Even otherwise, it is no more *res-integra*, that law of limitation has to be applied all but the same and with all its rigour, even if it may harshly affect a particular party. In [Basawaraj](#) (supra), this Court observed that 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. Even if the statutory provision may cause hardship or inconvenience to a particular party, the court has no choice but to give full effect to the same. It is based on the legal maxim dura lex sed lex, i.e., “the law is hard, but it is the law”. The relevant observations read as under: -

“12. 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 it full effect. 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.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have, from lapse of time, become stale. [...]” (Emphasis supplied)

235. An application seeking condonation of delay is to be decided only within the parameters [laid down by](#) this Court. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, on lofty ideals amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the statute.”

22. In the concluding paragraph of the aforesaid judgment, i.e. paragraph nos. 261 and 262, the court has observed as under :

“261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, which also equally suffers the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

262. The High Courts ought not give a legitimising effect to such a callous attitude of State authorities or

its instrumentalities. They should remain extra cautious, if the party seeking condonation of delay is a state authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigation, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under [Section 100](#) of the CPC, wherein its jurisdiction is already limited to questions of law.”

23. Thus, it is crystal clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay. The Hon’ble Apex Court has stated that it wants to convey an empathic message to all the High Courts that delay shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause

is made out, wherein the State machinery can establish that it acted with bona fides and remained vigilant throughout. In case in hand, the pleading nowhere shows that a sufficient case is made out from the application.

24. In that view of the matter, the delay of 3613 days cannot be condoned. Hence, the application is rejected. Since the Civil Application for condonation of delay is dismissed, the claimants would be entitled to the withdrawal of the amount, along with the interest, deposited with this Court.

25. Since the application for condonation of delay is dismissed, pending applications, if any, are also dismissed.

(RAJNISH R. VYAS, J.)

SPC