



2026:AHCLKO:988-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 83 of 2023

State Of U.P. Thru. Prin. Secy. (Judicial) Cum-
Legal Remembrancer Govt. Of U.P. Lko. And Ors

.....Appellant(s)

Versus

Uday Bhan Singh And Others

.....Respondent(s)

Counsel for Appellant(s)

: C.S.C.

Counsel for Respondent(s)

: Sushil Kumar Singh

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

(Order on C.M.Application No.1/2023; Application for Condonation of Delay)

1. Heard learned Additional Chief Standing Counsel for the State and Shri Sushil Kumar Singh, learned Counsel for the respondents.

2. This appeal has been filed by the State challenging a common judgment and order dated 21.05.2020 passed in Writ Petition No.3402 (S/S) of 2018 (Uday Bhan Singh & Others vs. State of U.P. and Others) and Writ Petition No.9184 (S/S) of 2018 (Lakshman Singh & Others vs. State of U.P. and Others).

3. At this stage, Shri S.K. Singh, learned Counsel for the respondents says that the appellants themselves have stated in their appeal that till date no regular selection as was ordered by the Writ Court, has been held. He also says that he opposes the application for condonation of delay orally as even otherwise it is the obligation of the Court under Section 3 of the Limitation Act, 1963 to see the question of limitation which does not depend on any objection raised by the respondents.

4. First and foremost a single appeal challenging a judgment even if a common judgment passed in two different writ petitions cannot be filed as per the rules of the Court. Nevertheless, even if this aspect is ignored for

the moment, what comes out is that this appeal is highly belated, therefore, we have to see as to what is the explanation offered for filing the appeal with such delay. The affidavit in support of the application for condonation of delay runs into six paragraphs it reads as under:-

"1. That the deponent is presently posted as Section Officer (Cash/Acctt) Govt. Advocate Office, High Court, Lucknow and has duly been authorized by Appellants to swear and file the instant Special Appeal and as such is fully conversant with the facts and circumstances of the case deposed hereunder. The photocopy of the identity proof of the deponent is enclosed.

2. That the judgment dated 21.05.2020 came into notice to the appellant No.2 in the last week of September 2022 when the petitions filed by one Sri Robin Srivastava came up for hearing before this Hon'ble Court at Allahabad.

3. That immediately thereafter, the appellant no.1 apprised and necessary approval/sanction was sought for filing special appeal against the judgment dated 21.05.2020.

4. That thereafter, the instant special appeal is being filed without any further delay.

5. That the delay caused in filing the instant special appeal is not deliberate but bonafide and therefore, may kindly be condoned, or self, the appellants shall suffer irreparable loss and injury.

6. That in view of the aforesaid facts, reasons and circumstances it is expedient in the interest of justice that the Hon'ble Court may graciously be pleased to condone the delay in filing the accompanying Special Appeal."

5. Paragraph No.2 of the aforesaid affidavit says that knowledge of the judgment and order dated 21.05.2020 was acquired by the appellant No.2 who is the Advocate General for the State of Uttar Pradesh only in

September, 2022 when the petitions filed by one Shri Robin Srivastava came up for hearing before this Court at Allahabad. This statement on affidavit reflects very poorly on the functioning of the office of the Advocate General. The office of the Advocate General is situated in the High Court premises both at Allahabad and at Lucknow. The writ petition which was decided on 21.05.2020 was filed and decided by the High Court at Lucknow. There is an office of the Advocate General in the High Court campus itself and in the same premises the office of the Chief Standing Counsel is there. The affidavit in support of the application for condonation of delay does not throw any light as to how and why notice/knowledge of the judgment dated 21.05.2020 impugned herein came to the knowledge of the Advocate General, U.P. only in September, 2022. The judgment impugned was reserved on 27.01.2020 and was delivered on 21.05.2020. The notice of delivery/pronouncement of the judgment is duly published. On the face of it, the reason given in paragraph No.2 of the affidavit is nothing but a lame excuse. No prudent person much less a Constitutional Court can accept such an explanation.

6. Paragraph No.3 of the affidavit in support of the application for condonation of delay thereafter goes on to state that immediately thereafter on acquiring knowledge about the judgment dated 21.05.2020, the Advocate General apprised the appellant No.1 i.e. the State Government, which granted approval for filing the appeal, however, the date on which the approval was granted is not mentioned.

7. Thereafter, all that the affidavit says is that the appeal was filed without any further delay. This appeal was filed on 12.10.2022 as a defective appeal, the defects were removed subsequently, therefore, it was registered on 16.02.2023. Even after giving benefit of the orders passed by Hon'ble the Supreme Court in *Suo Motu Writ Petition (Civil) No.3 of 2020* till 30.05.2022, the appeal is delayed by 135 days'. At least after the said period i.e. after 30.05.2022 some urgency should have been shown. There is no acceptable explanation for the period subsequent to 30.05.2022 till filing of the appeal and removal of the defects as also registration of the appeal. For the State to consume almost four months to remove the defects so that the appeal may be registered itself goes to show the lackadaisical, casual and negligent manner in which the appeal

was being pursued. Even if the contention of the appellants that they came to know about the impugned judgment in September, 2022 is accepted on its face value even then there is inordinate delay in filing the appeal and no plausible explanation has been offered for the period subsequent to September, 2022 till filing of the appeal and removal of defects as mentioned hereinabove.

8. Tested on the anvil of the recent decision of Hon'ble the Supreme Court rendered in the case of ***Shivamma (Dead) by LRS vs. Karnatka Housing Board and another*** reported in ***2025 SCC OnLine 1969*** decided on 12.09.2025, we do not find any reason to condone the delay in filing this appeal, which is inordinate. Hon'ble the Supreme Court has held in the case of ***Shivamma (Dead) (supra)*** that the expression 'sufficient cause' is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control. Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim interest *reipublicae ut sit finis litium* and destabilize the certainty that limitation law seeks to secure. The expression 'sufficient cause' must be construed in a manner that advances substantial justice while preserving the discipline of limitation. The courts are not to be swayed by sympathy or technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, courts have leaned towards condonation. Where negligence or a casual approach is discernible, condonation has been refused. The appellants have not acted with reasonable diligence nor is the explanation offered by them plausible and consistent with ordinary human conduct. There is negligence and casual approach on their part for the reasons already noticed herein-above.

9. Hon'ble the Supreme Court has further observed that the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether 'sufficient cause' has been demonstrated for not filing the appeal or proceeding within the prescribed period of

limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay. Test of 'sufficient cause' cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain. Yet another practical reason has been given by Hon'ble the Supreme Court as to why merits must not be considered at the stage of delay condonation that is it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. Therefore, we cannot consider the merits of the matter at this stage.

10. Hon'ble the Supreme Court has also considered as to whether there was any room for largesse for State lethargy and leisure under Section 5 of the Limitation Act. After considering various earlier decisions on the subject, ultimately, it opined that prior to the decision of '**Postmaster General vs. Living Media India Ltd.**' reported in (2012) 3 SCC 563, the approach was characterized by judicial sympathy towards the State and its instrumentalities in matters of condonation of delay, owing to the peculiar nature of their functioning. At the same time, there also existed contrary views such as '**State of W.B. vs. Administrator, Howrah Municipality**' reported in (1972) 1 SCC 366 and '**Lanka Venkateswarlu (D) by LRS vs. State of A.P. and ors.**' reported in (2011) 4 SCC 363 which held that, irrespective of whether the litigant is a Government entity or a private

individual, the provisions of limitation would apply uniformly, and any leeway shown by the courts would also remain the same. The law as it presently stands post the decision of Postmaster General (supra) as unambiguous and clear. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bonafide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant. Hon'ble the Supreme Court has further observed that on a combined reading of '*State of Rajasthan & Anr. vs. Bal Kishan Mathur (Dead) through Legal Representative*' reported in (2014) 1 SCC 592 and '*Sheo Raj Singh vs. Union of India*' reported in (2023) 10 SCC 531 it is equally manifest that the ratio of Postmaster General (supra) is, in essence, twofold. First, that State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. The State must be judged by the same standards as any private litigant. To do otherwise would compromise the sanctity of limitation. Secondly, that the habitual reliance of Government departments on bureaucratic red tape, procedural bottlenecks, or administrative inefficiencies as grounds for seeking condonation of delay cannot always, invariably accepted as a 'sufficient cause' for the purpose of Section 5 of the Limitation Act. If such reasons were to be accepted as a matter of course, the very discipline sought to be introduced by the law of limitation would be diluted, resulting in endless uncertainty in litigation. We have perused other parts of the said judgment including para 214 and onwards.

11. We accordingly, do not find any ground or explanation to condone the inordinate delay of 135 days' in filing this appeal. The application for condonation of delay is **rejected**, consequently, the appeal is also **dismissed**.

January 7, 2026

-Piyush-

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)