



2026:AHC-LKO:3887-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 31 of 2016

State Of U.P.Thru Prin.Secy.Transport
Deptt.Lko.And Ors.

.....Appellant(s)

Versus

Gyan Prakash

.....Respondent(s)

Counsel for Appellant(s)	: C.S.C.
Counsel for Respondent(s)	: Suresh Kumar Upadhyay, Manish Mani Sharma

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

(C. M. Application No. 8116 of 2016)

1. This is an application for condonation of delay in filing special appeal supported with affidavit.
2. Heard learned Additional Chief Standing Counsel for the State and learned counsel for the respondents.
3. The appeal is delayed by 8 months and 17 days. The delay has not been condoned. We could not notice this fact and therefore, passed the order dated 30.04.2024, inadvertently.
4. We are obliged under Section 3 of the Limitation Act, 1963 and the recent judgment of Hon'ble the Supreme Court rendered in the Case of *Shivamma (Dead) by LRs. Vs. Karnataka Housing Board and Ors.* reported in *2025 SCC OnLine 1969*, to, first of all, consider the delay before proceeding to consider the merits of the matter.
5. We, accordingly, proceed to consider the application for condonation of delay in filing the special appeal.

6. The special appeal has been filed by the State under Chapter VIII Rule V of Allahabad High Court Rules, 1952 assailing the judgment and order dated 06.04.2015 passed in Writ Petition No. 7976 (S/S) of 2006; Gyan Prakash Vs. State of U.P. and Ors.

7. As per the reporting there is a delay of 8 months and 17 days in filing the special appeal. The limitation prescribed for filing such appeals under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is 30 days vide Chapter IX Rule 10 of the Rules, 1952 read with Article 117 of the Schedule appended to the Limitation Act, 1963.

8. The affidavit filed in support of the application for condonation of delay states that the impugned judgment was received in the office of the appellants on 10.04.2015 and after receiving the judgment on 10.04.2015, on 05.05.2015, a comprehensive letter was written to the State Government seeking approval for filing special appeal. The State Government asked the Transport Commissioner, U.P. to seek legal opinion vide its letter dated 02.06.2015. The aforesaid facts are themselves indicative of leisurely and casual manner in which the appellants herein proceeded with the matter. Once the impugned judgment was received on 10.04.2015, then, 25 days were taken only to communicate the request for approval for filing special appeal to the State Government. The State Government in turn took almost a month just to ask the Transport Commissioner, U.P. to seek legal opinion from the learned Chief Standing Counsel of the High Court at Lucknow, meaning thereby, a little less than two months were utilized only for this trivial purpose. Learned Chief Standing Counsel gave his legal opinion on 14.07.2015 i.e. almost one and half months later. The legal opinion was again sent to the State Government vide letter dated 29.07.2015 i.e.

another 15 days after it was given, which hardly show any urgency, promptness or diligence on the part of the State Authorities. The permission was ultimately given on 28.08.2015 almost a month after issuance of letter dated 29.07.2015, which again is reflective of the negligent manner in which the State Authorities proceeded in the matter showing no urgency to prefer the appeal. Even thereafter, almost 20 days were utilized just to communicate the decision to the learned Chief Standing Counsel regarding filing of an appeal i.e. on 18.09.2015, when, the file was allotted to the State Law Officer who in turn took about a week to communicate to the 'Pairokar' that certain documents were required, meaning thereby, incomplete documents were provided to the learned Chief Standing Counsel for preparing the appeal. Almost one and half months were utilized to collect those documents which were made available to the learned Chief Standing Counsel only on 16.11.2015. It is only thereafter, the appeal was prepared and drafted. The appeal in fact was filed on 13.01.2016 i.e. almost two months after the documents had been handed over to the State Counsel. Nothing is mentioned in the affidavit as to the efforts, if any, made by the appellants/State Authorities to pursue the matter with their counsel in the High Court so that the appeal could be preferred at the earliest and filed promptly. In fact, no documentary proof has been annexed in support of the averments made in the affidavit which even otherwise does not contain sufficient explanation for the inordinate delay of 8 months and 17 days. We have tested the aforesaid explanation on the anvil of recent judgment of Hon'ble the Supreme Court rendered in the case of **Shivamma (Dead)** (supra).

9. We have gone through the recent judgment rendered by Hon'ble the Supreme Court in the case of **Shivamma (Dead)** (supra), wherein the law

with regard to condonation of delay and ancillary issues have been elucidated by Hon'ble the Supreme Court. The period of limitation for filing the appeal being thirty days, there is hardly any explanation for the said period in the affidavit in support of the application. At least, it is not satisfactory. As regards the period after expiry of limitation also, hardly any acceptable explanation has been offered. 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 destabilise 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, want of good faith, or a casual approach is discernible, condonation has been refused. We are of the opinion that these latter observations of the Hon'ble Supreme Court apply on all its fours to the facts of this case. 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, want of good faith and casual approach on their part for the reasons already noticed hereinabove. Preference of such appeal with inordinate delay

certainly prejudices the rights of the opposite parties under the judgment impugned herein. Therefore, this is also relevant factor to be taken into consideration in view of the judgment in the case of Shivamma (Dead) (supra).

10. 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.

11. 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 v. Living Media India Ltd.**' reported in (2012) 3 SCC 563, the approach was characterised 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 Vs. State of A.P.**' reported in (2011) SCC Online SC 403 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. We do not find it a fit case for condoning the delay and extending the limitation.

12. Accordingly, the application for condonation of delay in filing special appeal is **rejected**.

13. Consequently, the special appeal is also dismissed.

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

January 19, 2026
R.K.P.