



2026:AHC:15981

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 4880 of 2025

Mohammad Shahabuddin

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Mohd Abdullah Tehami, Syed Mohammad Nawaz
Counsel for Respondent(s)	:	C.S.C.

Court No. - 54

HON'BLE DINESH PATHAK, J.

1. Heard learned counsel for the petitioner, learned Standing Counsel, and perused the record.
2. Petitioner is aggrieved by the order dated 12.06.2025 passed by the Deputy Director of Consolidation (in brevity 'DDC'), whereby a direction has been issued to the Settlement Officer of Consolidation (in brevity 'SOC') to decide the delay condonation application under Section 5 of the Limitation Act first, before deciding the appeal on merits. Perusal of the record evinces that the SOC, vide order dated 10.01.2025, had directed to decide the delay condonation application as well as the merits of the appeal simultaneously. Being aggrieved, private respondent nos. 3 to 6 preferred a revision. The DDC, vide order dated 12.06.2025, partly allowed the revision by modifying the order passed by the SOC holding that the delay condonation application should be heard first before deciding the merits of the case; accordingly, the parties were directed to appear before the SOC on 26.06.2025.
3. It is no more res integra that the delay condonation application should be decided first before considering the merits of the case, as per the ratio decided by the Hon'ble Division Bench of this Court in the matter of **Ram Prakash Vs. Deputy Director of Consolidation 2022 (155) RD 309**. Relevant paragraph nos.19, 20 and 21 of **Ram Prakash (supra)** are quoted hereinbelow:-

"19. We are not going into the issue as to whether an order passed by appellate authority on an application seeking condonation of delay is an interim order or final as the same has not been referred for consideration by the Division Bench. Different situations may arise in an appeal filed

along with application seeking condonation of delay. Firstly, the application for seeking condonation of delay may be dismissed. As a consequence thereof, the appeal will also fail. Another situation may be that application seeking condonation of delay is allowed and thereafter the appeal may either be accepted or rejected.

20. If any statute provides certain period for filing of appeal, an appeal filed beyond the time limit will certainly be not entertained. If the provisions of 1963 Act are applicable and party is entitled to seek condonation of delay in filing appeal, an application has to be filed specifying the grounds on which delay in filing the appeal is sought to be condoned. It is only after that the application is allowed, the appeal can be entertained and heard on merits. Before that the appeal cannot be taken up and considered on merits.

21. As far as the issue regarding hearing of the application seeking condonation of delay and the appeal simultaneously is concerned, in our view, firstly the application has to be considered. Only thereafter, the appeal can be considered on merits but there is nothing in law which requires hearing of appeal on merits to be postponed mandatorily after acceptance of the application seeking condonation of delay. Both can be taken up on the same day. However, the appeal has to be heard on merits only after the application seeking condonation of delay has been accepted."

4. In this conspectus, as above, this court does not find any justifiable ground to entertain the instant writ petition or to interfere with the order passed by the DDC. There is no illegality, irregularity, perversity, infirmity or ambiguity in the order impugned so as to warrant the indulgence of this Court in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. There is nothing on the record to demonstrate as to how the present petitioner has been prejudiced, or if there is any likelihood of causing miscarriage of justice to him, owing to the order impugned. However, the SOC is directed to adhere to the directions given by the Hon'ble Division Bench of this Court in paragraph no.21 of the order passed in the case of **Ram Prakash (supra)**.

5. Resultantly, instant writ petition, being misconceived and devoid of merits, is dismissed with no order as to the costs.

January 22, 2026

vkg

(Dinesh Pathak,J.)