



2026:AHC-LKO:17600-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 28 of 2024

State Of U.P. Thru. Prin. Secy. Forest Deptt. And
Others

.....Appellant(s)

Versus

Shyam Rang Dwivedi

.....Respondent(s)

Counsel for Appellant(s)	:	C.S.C.
Counsel for Respondent(s)	:	Ramesh Kumar Srivastava

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard learned Additional Chief Standing Counsel for the State-appellants and learned counsel for the respondent and perused the material available on record.
2. This Special Appeal has been filed by the appellants under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 challenging the Judgment and order dated 27.01.2023 passed by the learned Single Judge in Writ-A No. 4274 of 2012 (Shyam Rang Dwivedi vs. State of U.P. and others). This appeal has been filed on 12.01.2024. It is delayed by 319 days as on 12.01.2024, as reported by the office. Limitation for filing such appeal is 30 days as prescribed under Chapter IX Rule 10 of the Allahabad High Court Rules, 1952 read with Article 117 of the Schedule appended to the Limitation Act, 1963. An application for condonation of delay in filing the appeal supported by an affidavit has also been filed.
3. We have gone through the affidavit in support of application for condonation of delay and considered the same in the light of the decision of Hon'ble Supreme Court 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*.
4. Though the judgment impugned is dated 27.01.2023, according to the appellant it came to their knowledge on 01.03.2023, however, there is no

explanation as to whether the Standing Counsel, who was present in Court when the aforesaid impugned judgment was pronounced as there is a battery of lawyers present on behalf of the State in every Court intimated the appellants about the passing of the said judgment or not. The affidavit is silent on this aspect.

5. Para-6 of the affidavit speaks of a committee having been constituted for considering regularization of the respondent-petitioner on 24.03.2023, which submitted its report on 01.09.2023 i.e. almost more than five months since its constitution, to the effect that he is not eligible for regularization. Even it was so, one fails to understand as to how this can be an explanation for inordinate delay of 319 days. It is also said that legal opinion was sought from Chief Standing Counsel, who gave it on 29.05.2023, according to which the impugned judgment was liable to be challenged. If it was so and the legal opinion had been given on 29.05.2023 then question is why the appeal was filed so belatedly on 12.01.2024.

6. The affidavit says that a proposal for filing special appeal was forwarded to the Forest Conservator vide letter dated 05.09.2023. Here again, there is a gap of more than five months from the date of furnishing of legal opinion by the Chief Standing Counsel and the matter being forwarded by Forest Conservator as if the appellant was reluctant to file an appeal otherwise they would have acted more promptly. The Forest Conservator in turn forwarded the matter vide his letter dated 06.09.2023 to the Chief Conservator of Forest (Central Zone), who further forwarded it to the Chief Conservator of Forest (Litigation). The latter officer then forwarded the matter to the Law Department vide his letter dated 14.09.2023. The Department of Forest in the State Government then forwarded the matter to the Law Department. The remaining paragraphs only narrate as to how the file kept on moving from one desk to another, which as per the ***Shivamma (Dead) (supra)*** is hardly an explanation for condoning the delay.

7. 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, want of good faith, 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, want of good faith and casual approach on their part for the reasons already noticed herein-above.

8. 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.

9. 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.

10. In view of the aforesaid provisions of law propounded by the Hon'ble Supreme Court in the case of *Shivamma (Dead) (supra)*, the affidavit filed by the appellants explaining the delay is inadequate and insufficient. Sri Ramesh Kumar Srivastava, learned counsel for the respondent also says that services of the petitioner have already been regularized.

11. In view of the aforesaid, we do not find any reason to condone such inordinate delay in filing the appeal. **Accordingly, the application for condonation of delay is rejected.**

12. Consequently, the appeal also stands dismissed.

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

March 10 , 2026

Anuj Singh