



2026:AHC-LKO:12682-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

**APPEAL UNDER SECTION 37 OF ARBITRATION AND
CONCILIATION ACT 1996 DEFECTIVE No. - 4 of 2026**

State of U.P. Thru. Prin. Secy. Public Works Deptt. Civil Sectt. Lko. and
3 others

.....Appellant(s)

Versus

M/s Channi and Company Proprietorship Firm Thru. Proprietor Swami
Sardar Guru Channi

.....Respondent(s)

Counsel for Appellant(s)	:	Raj Mani Dubey, S.C.
Counsel for Respondent(s)	:	

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') is directed against the judgment dated 20.03.2025 passed by the Commercial Court No.2, Lucknow whereby application filed by the appellants under Section 34 of the Act against award dated 25.06.2018 passed by the Arbitral Tribunal, has been dismissed.
2. The office has reported the appeal as barred by 219 days.
3. An application under Section 5 of the Limitation Act has been filed seeking condonation of delay in filing the appeal supported by an affidavit of the Assistant Engineer, Public Works Department, Lucknow.

4. Submissions have been made that copy of the judgment impugned dated 20.03.2025 passed by the Commercial Court was received on “04.03.2024” (when the said date as indicated in the affidavit being prior to date of judgement was pointed out, it was submitted that the same is a typographical mistake). It is then worded in the affidavit that ‘immediately’ after receiving the copy of the judgment on 09.07.2025, i.e. after about four months, matter was referred to the Chief Standing Counsel who gave his opinion on 25.07.2025.

5. Further indication has been made that after receiving legal opinion, the matter was referred to the Headquarter which in turn referred the same to the Administrative Department of the Government, which gave permission on 08.09.2025 to file the appeal, Chief Standing Counsel was contacted on 24.09.2025 who assigned the matter to the Standing Counsel, who drafted the appeal in part on 04.10.2025 and sought explanation for the delay.

6. The record was made available on 18.10.2025 and the narrative regarding delay was supplied on 05.11.2025. Whereafter the appeal has been filed on 05.02.2026.

7. It is claimed that the delay in filing the appeal is genuine, *bona fide* and unintentional and the same has occurred on account of the time consumed in undertaking administrative formalities by following certain norms and procedure of disciplined and systematic performance of official functions.

8. Based on the said submissions, it has been prayed that the delay in filing the appeal be condoned.

9. Counsel for the appellants attempted to make submissions that that the delay has occurred on account of procedures involved. However, when huge unexplained gaps were pointed out, wherein for the first time after passage of about four months from passing of the order, opinion was sought, whereas the limitation for filing the appeal is 60 days only and it took five months, after the permission was granted for filing of the appeal, except for vague and incoherent

pretext only for the sake of filing the application, nothing could be submitted.

10. We have considered the submissions made and have perused the documents available on record.

11. The nature of application which has been filed containing wrong dates and claiming that opinion was sought immediately, which immediate had happened after four months from the date of judgement, shows the total apathy on part of the officials of the appellants in questioning the validity of judgements passed against the State.

12. It is now well settled that intra departmental communications, exchange of letters etc. regarding opinion to file appeal, cannot and do not constitute sufficient ground for condonation of delay as negligent acts and lack of due diligence cannot favour the person seeking condonation of delay. The Hon'ble Supreme Court, in the case of **Basawaraj Vs. Land Acquisition Officer : (2013) 14 SCC 81**, has laid down as under:-

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature”

13. The lethargic attitude on the part of the State and its instrumentalities has been frowned upon by Hon'ble Supreme Court in **Postmaster General v. Living Media India Ltd. : (2012) 3 SCC 563** wherein, while dealing with the appeals filed on behalf of the State, by its agencies and government bodies, it was, inter alia, observed as under:

"29. 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 bonafide 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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department 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. Accordingly, the appeals are liable to be dismissed on the ground of delay."

14. The issue with regard to the extent of condonation of delay in filing of the appeals under Section 37 of the Act came up before the Hon'ble Apex Court in **Government of Maharashtra vs. Borse Brothers Engineers and Contractors Private Limited : (2021) 6 SCC 460**, wherein following was observed:

"63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or section 13(1A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."

15. In yet another decision emanating from the proceedings under Section 37 of the Act wherein similar defence was sought to be taken by the State in preferring appeal beyond the statutory period the Hon'ble Apex Court in the case of **State of Uttar Pradesh & Others Vs. M/s. Satish Chand Shivhare & Brothers : 2022 SCC Online SC 2151** held as under:

"17. The explanation as given in the affidavit in support of the application for condonation of delay filed by the petitioners in the High Court does not make out sufficient cause for condonation of the inordinate delay of

337 days in filing the appeal under Section 37 of the Arbitration and Conciliation Act. The law of limitation binds everybody including the Government. The usual explanation of red tapism, pushing of files and the rigmarole of procedures cannot be accepted as sufficient cause. The Government Departments are under an obligation to exercise due diligence to ensure that their right to initiate legal proceedings is not extinguished by operation of the law of limitation. A different yardstick for condonation of delay cannot be laid down because the government is involved."

16. Recently, Hon'ble Supreme Court, in **Shivamma (Dead) by LRs Vs. Karnataka Housing Board and others : 2025 SCC OnLine SC 1969**, after scanning the entire law on the subject, observed as under:

"262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and 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 litigations, 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.

263. Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.

264. No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law."

17. In view of the law as laid down by Hon'ble Supreme Court, as discussed hereinbefore, we find that besides the fact that the averments contained in the affidavit are factually incorrect, there are unexplained gaps in between the steps taken by the appellants. The explanation offered for delay of 219 days in filing the appeal cannot be said to be sufficient so as to seek condonation of delay.

18. Accordingly, the application seeking condonation of delay stands rejected.

19. In view of the rejection of the application seeking condonation of delay, the appeal is dismissed as barred by limitation.

(Jaspreet Singh,J.) (Arun Bhansali,CJ.)

February 17, 2026

RK