



2026:AHC-LKO:11341

AFR

Reserved on January 29, 2026
Delivered on February 13, 2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SECOND APPEAL DEFECTIVE No. - 87 of 2017

State of U.P. Thru. Distt. Magistrate Lakhimpur Kheri and 2 Ors
.....Appellant(s)

Versus

Vinod Kumar Chopra and 4 others
.....Respondent(s)

Counsel for Appellant(s)	: Standing Counsel,
Counsel for Respondent(s)	: Sushil Kumar Rastogi

Court No. - 20

HON'BLE PRASHANT KUMAR, J.

C.M. Application No.20593 of 2017

1. Heard Shri Anuj Kudesia, Additional Advocate General as well as Senior Advocate assisted by Shri Hemant Kumar Pandey, learned Additional Chief Standing Counsel appearing for the appellant/State.

2. The second appeal has been preferred against the judgment and decree dated 23.07.2003 passed by learned Additional District Judge, Court No.5, Lakhimpur Kheri in Civil Appeal No.230 of 2001 (Prabhagiya Van Adhikari and others v. Dev Kumar Chopra and others), whereby the application for condonation of delay in filing the appeal under Section 96 of the Civil Procedure Code against the judgement and decree dated

15.05.2000 passed by learned Additional Civil Judge (S.D.), Lakhimpur Kheri in Regular Suit No.108 of 1995 (Dev Kumar Chopra v. Prabhagiya Van Adhikari and others) moved by the appellants under Section 5 of the Limitation Act has been rejected. This appeal was filed with the delay of 4957 days.

3. This is an application for condonation of delay under Section 5 read with Section 14 of the Limitation Act.

Factual matrix of the case are as follows:

4. The respondent nos.1 and 2 (plaintiffs) owned a brick-kiln and was in a business of manufacturing bricks. The respondents supplied bricks to the Government and other government agencies from time to time and whenever quotation was called for, they used to give quotation for the same. In the year 1992, the defendant no.1/appellant no.2 sought for a quotation for 35,000 best quality bricks. The same was given by the plaintiffs/respondent nos.1 and 2. On 07.03.1992 an order was placed to provide 35,000 best quality bricks and to be delivered in the office of the defendant no.1/appellant no.2. The agreed rate was Rs.875/- per thousand, which included transportation, unloading and stacking. As per order the plaintiffs/respondent nos.1 and 2 supplied 35,000 bricks. The defendant no.1/appellant no.2 further directed him to provide additional 8,000 bricks, which were also supplied and transported, unloaded and stacked in the office of the defendant no.2/appellant no.3. At that point of time, defendant no.1/appellant no.2 returned 15024 bricks, which were not upto the mark, however, the defendant no.1/appellant no.2 retained 28,476 bricks, which according to the agreement were valued Rs.24,966.50/-. All the bricks were supplied on 27.03.1992. As per agreement the payment was to be made within three months. Accordingly, the payment became due on 27.06.1992. After getting the bricks, the defendant no.1/appellant no.2

did not pay the amount. Hence, plaintiff preferred a suit for recovery of the amount. In this suit, written statement was filed by the appellants. After hearing the parties, the civil court framed issues and ultimately decreed the suit vide order dated 15.05.2000.

5. The appellants herein assailed this decree and judgement dated 15.05.2000 passed by the civil court by preferring appeal bearing Civil Appeal No.230 of 2001 before the appellate court i.e. Additional District Judge, Lakhimpur Kheri. This appeal was filed after **a delay of 1 year and 4 months** and the same was rejected vide order dated 23.07.2003 on the ground of delay and on merits.

6. Further after a delay of almost **about 9 months**, on an advice given by the counsel for the appellants, a civil revision bearing Civil Revision No.61 of 2004 was filed before this Court on 21.04.2004, which got rejected vide order dated 18.09.2015, which is quoted below:

“Sri Adnan Ahmad, State Law Officer candidly states that this revision is not maintainable in view of the decision of this Court in the case of Smt. Prem Wati and Anr. vs. Smt. Munni Devi [2009(27)LCD 508].

Accordingly, revision is dismissed as not maintainable.

It will be open for the revisionist to approach appropriate forum in accordance with law, if so advised.”

7. After rejection of the civil revision, instant second appeal along with application for condonation of delay has been filed on 16.02.2017 challenging the order dated 23.07.2003. The Registry of this Court pointed out a delay of **13 years, 3 months and 26 days (4957 days)**. The reasons for the delay mentioned in the affidavit filed in support of the delay condonation application was that, the impugned order was passed on 23.07.2003, but due to some legal advice, a civil revision was filed before this Court on 21.04.2004, which ultimately got

dismissed on 18.09.2015 on the ground that the revision is not maintainable. However, this Court granted a permission to the revisionist to approach any forum in accordance with law. This order was passed on 18.09.2015 and after that the appellants sought permission from the Legal Department of the State for filing the appeal. The permission was accorded on 04.11.2016. Thereafter the District Forest Officer, Lakhimpur Kheri wrote a letter on 17.11.2016 and requested the Chief Standing Counsel to file instant second appeal, who in turn advised the officer to bring documents along with certified copy of the impugned decree and order. Certified copy was applied on 21.11.2016 and the same was made available on 24.12.2016. Somehow the certified copy was not given to the counsel and hence the certified copy of the decree was applied, which was made available on the same day. Thereafter the instant second appeal was filed on 16.02.2017.

8. Since the reasons for condonation of delay were not properly explained, a supplementary affidavit was filed, wherein it has been stated that against the impugned order dated 23.07.2003 passed by the civil court, the appellant had preferred a civil revision before this Court on 21.04.2004 and the same was dismissed on 18.09.2015. After passing the aforesaid order by the High Court on 18.09.2015, the Regional Forest Officer, Sharda Nagar informed the same to the Divisional Forest Officer, South Kheri vide letter dated 30.09.2015. On 15.10.2015, the Divisional Forest Officer, Kheri requested the Chief Standing Counsel for obtaining the certified copy of the order dated 18.09.2015 and to furnish legal opinion regarding future course. The Regional Forest Officer, Sharda Nagar vide his letter dated 12.01.2016 sent certified copy of the order dated 18.09.2015 to the Divisional Forest Officer, South Kheri for his guidance, who sought for the legal opinion and the same was submitted on 14.01.2016 by the State Law officer to the Divisional Forest Officer on 18.01.2016. The Divisional

Forest Officer on 26.01.2016 requested the District Government Counsel (Civil), Lakhimpur Kheri to prepare short history of the case and submit his legal opinion on the subject. The Regional Forest Officer, Sharda Nagar vide his letter dated 24.09.2016 submitted his synopsis of the case and his opinion to the District Government Counsel (Civil) Lakhimpur Kheri. The Divisional Forest Officer, South Kheri vide his letter dated 01.03.2016 requested the Chief Forest Conservator, Lucknow Division, Lucknow for filing instant second appeal. The Chief Forest Conservator, Lucknow Division, Lucknow vide his letter dated 04.03.2016 sought further report on certain subject from the Divisional Forest Officer, South Kheri, who in turn submitted his report to the Chief Forest Conservator, Lucknow Division, Lucknow on 15.03.2016. The Chief Forest Conservator, Lucknow Division, Lucknow vide his letter dated 21.03.2016 requested the Principal Secretary, Forest and Forest Animal, U.P. to accord permission to file second appeal, but the matter was kept pending before the Principal Secretary, Forest. The Chief Forest Conservator, Lucknow Division, Lucknow, he again on 28.07.2016 requested the Principal Secretary, Forest to accord permission. Similar requests were also made on 12.09.2016 and 15.09.2016. The Divisional Forest Officer again asked the Regional Forest Officer to personally contact the State Government for obtaining necessary approval for filing second appeal. It is on 14.10.2016, the Chief Forest Conservator, Lucknow Division, Lucknow directed the Divisional Forest Officer, South Kheri to proceed for filing of the instant second appeal. The Additional Legal Remembrancer accorded the approval for filing of the instant second appeal on 04.11.2016. Thereafter on 17.11.2016, the Divisional Forest Officer, South Kheri requested the Chief Standing Counsel for filing of instant second appeal and thereafter instant second appeal was filed on 16.02.2017.

Submissions

9. Learned Senior Advocate appearing for the appellant/State further submits that the delay so occasioned in filing the appeal is a procedural delay and further the benefit of period for which the civil revision was pending, may be granted to them as per the Limitation Act.

10. He further submits that in view of above, any delay so occasioned is not because of the laches or laxity, but because of the procedure adopted by the State, wherein approval has to be taken at various levels and accordingly, the delay may be condoned.

11. He also submits that the sufficient cause has been shown in the delay condonation application and the delay, so occasioned, is purely a procedural. He further submits that while condoning the delay, the Court should take liberal view looking into the facts that some delay do happen as the file has to move at different levels before permission is granted and the appeal is filed and hence a lenient view should be taken for the State and its instrumentalities as has been laid down in various judgements passed by the Apex Court.

12. To buttress his arguments, he placed reliance on the judgement passed by Hon'ble Supreme Court in the matter of ***State of Haryana v. Chandra Mani and Ors., Reported in (1996) 3 SCC 132***, wherein it has been held as under:

“In G. Ramegowda, Major & Ors, v. Spl, Land Acquisition Officer, Bangalore; [(1988) 2 SCR 198], it was held that no general principle saving the party from all mistakes of its counsel could be laid. The expression "sufficient cause" must receive a liberal construction so as to advance substantial justice and generally delays in preferring the appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is

imputable to the party seeking condonation of delay. In litigations to which Government is a party, there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decision of private individuals. The law of limitation is, no doubt, the same for a private citizen as for Governmental authorities. Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it. It was, therefore, held that in assessing what constitutes sufficient cause for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the consideration that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the Government. Government decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have a little play at the joints'. Due recognition of these limitations on Governmental functioning - of course, within reasonable limits - is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put Government and private parties on the same footing in all respects in such matters. Implicit in the very nature of Governmental functioning is procedural delay incidental to the decision making process. The delay of over one year was accordingly condoned."

(emphasis supplied)

13. He further placed reliance upon a judgement of Hon'ble Supreme Court in the matter of **N. Balakrishnan v. M. Krishnamurthy, reported in (1998) 7 SCC 123**, wherein it has been held as under:

“10. The reason for such a different stance is thus: The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

12. A court knows that refusal to condone delay would result foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain Vs. Kuntal Kumari; [1969] 1 SCR 1006 and State of West Bengal Vs. The Administrator, Howrah Municipality; [1972] 2 SCR 874.

13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation.”

(emphasis supplied)

14. Further he placed reliance on a judgement passed by Hon’ble Supreme Court in the matter of **Sridevi Datla v. Union of India and Ors**, reported in (2021) 5 SCC 321, wherein it has been held as under:

“27. It is evident that the term sufficient cause is relative, fact dependant, and has many hues, largely deriving colour from the facts of each case, and the behaviour of the litigant who seeks condonation of delay (in approaching the court). However, what can broadly be said to be universally accepted is that in principle, the applicant must display bona fides, should not have

been negligent, and the delay occasioned should not be such that condoning it would seriously prejudice the other party.

28. Keeping these principles in mind, it is relevant to consider whether the NGT's refusal to exercise discretion, in the facts and circumstances of this case, was erroneous. The court is conscious of the fact that exercise of discretion, per se, is a fact dependent one, and considerable latitude should be given to the court or tribunal of the first instance, in the performance of that task. Nevertheless, as decided, cases and judgments have shown that the exercise of discretion does at times, call for appellate scrutiny by this court. This is one such. The appellant pleaded that since the documentation attendant to the clearance granted to the Project Applicant was voluminous, and expert as well as professional legal advice of the kind necessary to approach the NGT was not available in the State of Andhra Pradesh, the procuring of relevant documents, and correspondence with counsel in Delhi and drafting of the appeal entailed some delay.

30. In view of the foregoing findings, this court is of the opinion that the impugned order of NGT has to be and is, therefore set aside. The delay in filing the appeal before the NGT is hereby condoned; the parties shall now appear and proceed to argue the appeal on its merit, which shall then be disposed in accordance with law. The appeal is allowed. There shall be no order on costs."

(emphasis supplied)

15. He also placed reliance upon a judgement of Hon'ble Supreme Court in the matter of ***Inder Singh v. The State of Madhya Pradesh, reported in 2025 INSC 382***, wherein it has been held as under:

"14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.

15. In the present case, the filing of the Review Petition before the First Appellate Court was with a delay of two years and four months and the Second Appeal before the High Court was delayed by about a year from the date of the dismissal of the Review Petition i.e., 30.09.2019. Pausing for a moment, it is necessary to indicate that in the present case, the dispute over title of a land is not between private parties, but rather between the private party and the State. Moreover, when the land in question was taken possession of by the State and allotted for public purpose to the Youth Welfare Department and the Collectorate and has continued in the possession of the State, the claim of the State that it is government land cannot be summarily discarded. We find, upon a perusal of the record, that the appellant had, in fact, filed an execution case for taking over possession of the land, which would demonstrate clearly the admitted position that he was not in possession thereof. Thus, the matter would, in our considered view, require adjudication on its own merits due to various reasons, inter alia, the fact that a new district has been formed after the initial claim of the appellant of being allotted the land in the years 1975-1976/1977-1978. Therefore, the delay of 1537 days reckoned from 01.10.2015 i.e. when the First Appellate Court decreed the suit, includes two years and four months delay in filing a Review Petition (which was itself dismissed on the ground of delay by the First Appellate Court) and of about a year thereafter for filing the Second Appeal before the High Court, in the peculiar facts and circumstances of the case, which, at the cost of repetition relate to land claimed by the State as government land and in its possession, persuade us to not interfere with the Impugned Order. Relevantly, initially the suit was dismissed by the Trial Court, which decision was reversed by the First Appellate Court.

18. Considering the above pronouncements and on an overall circumspection, we are of the opinion that the Second Appeal deserves to be heard, contested and decided on merits. However, a note of caution is sounded to the respondent to exhibit promptitude in like matters henceforth and in futuro, failing which the Court may not be as liberal.”

(emphasis supplied)

16. Hence, in view of the ratio laid down by Hon'ble Supreme Court, a lenient view should be taken against the State and its instrumentalities, and owing to the genuine problem, which they face, the Court should take a lenient view while dealing with the condonation the delay. He further submits that in this matter sincere efforts were made by the revenue authorities to avoid the delay but in spite of that, the delay could not be avoided and the same is bona fide and that there is no deliberate lapse on the part of the authorities.

17. Learned counsel, Shri Hemant Kumar Pandey, further submitted that, though sincere efforts were made by the revenue authorities to avoid delay but in spite of that, the delay could not be avoided and the same is bonafide. There is no deliberate lapse on the part of authorities but due to procedures involved, the delay was caused. He further submits that the State is a multi-functioning body and it has to follow the rules of obtaining sanction etc. for filing an appeal, therefore, it took some time for the State to obtain sanction etc. from the highest authorities of the State for preferring this appeal. The delay caused in filing the instant appeal may kindly be condoned on the basis of ratio as laid down in various judgments of the Hon'ble Supreme Court.

18. Learned counsel for the appellant submits that if the delay is not condoned, as the delay was because of reasons beyond the control of the appellant, then it would be very harsh upon the appellant and it will have far-reaching consequences. He further submits that the delay, which has so occasioned in preferring the instant appeal was procedural and unintentional, hence the same may be condoned and the instant appeal may be heard on merit.

Analysis

19. Looking into the facts of this case, it is apparent that the plaintiffs (respondents) were in a business of manufacturing bricks and used to

supply to the defendants. An order was placed by the defendants to supply 35,000 best quality bricks at the rate of Rs.875/- per thousand. As per order the plaintiff supplied 35,000 bricks, however, the defendant no.4 further directed him to provide additional 8,000 bricks and all the bricks were provided and transported, unloaded and stacked in the office of the defendant no.2 on 07.03.1992. At that point of time, defendant no.1 returned 15,024 bricks, which were not upto the mark, however, the defendant retained 28,476 bricks, which according to the agreement were valued Rs.24,966.50/-and as per agreement entire payment has to be made within three months. Accordingly the last date of payment is 27.06.1992, but the defendants chose not to pay the same. Since the payment was not made, the plaintiff preferred a suit for recovery against defendants being Civil Suit No.108 of 1995, which was decreed vide order dated 15.05.2000.

20. This order was assailed by the appellants by filing civil appeal before the Additional District Judge, Lakhimpur Kheri and the appeal was filed with the **delay of more than about 16 months** and the appellate court vide order dated 23.07.2003 was pleased to dismissed the appeal on the ground of delay as well as on merits.

21. This appellate order was challenged after a **delay of about 11 months** by preferring a civil revision before this Court being Civil Revision No.61 of 2004, which was dismissed on the ground of maintainability, however, a liberty was granted to the appellants to approach any other forum. Thereafter the appellants have assailed the order passed by the appellate authority by means of the instant second appeal.

22. The Registry of this Court has pointed out **a delay of 13 years, 3 months and 26 days (4957 days)** in filing this appeal.

23. It was contended, because of wrong advice, a civil revision was filed on 21.04.2004 and the same was kept pending and was dismissed on 18.09.2015. Hence the benefit of this period may be given to the appellants and the delay, because of the pendency of the civil revision, may not be included in the delay as the delay so occasioned was purely technical. The details of the delay in filing the respective cases is as follows :

Case Number	Filed on	Decided on	Gap in filing case	Gap in filing second appeal from decision of first appeal	Days lapse during the period of revision
Regular Suit No.108 of 1995		15.05.2000	N.A.	4957 days	4167 days
Civil Appeal No.230 of 2001	19.12.2001	23.07.2003	583 days		
Civil Revision No.61 of 2004	21.04.2004	18.09.2015	273 days		
Second Appeal Defective No.87 of 2017	16.02.2017	N.A.	517 days		

Days left after reduction of revision period:

Gap in filing Second Appeal after first appeal is:	4957 days
minus delay during pendency of civil revision:	- 4167 days
Total gap left in filing second appeal is:	= 790 days
minus statutory period of 90 days for filing second appeal:=	700 days

24. Even after granting the benefit the actual delay to condone will be 700 days. Even if this Court do not consider the entire period lapse before final decision of civil revision still there is a delay of 517 days, which requires sufficient explanation for condonation of delay.

25. The aforesaid chart showing the date of filing of various proceedings in the matter shows that throughout the appellant had been casual, lethargic in safeguarding his interest. The application for condonation of delay filed along with this appeal does not show any sufficient cause. However, even an affidavit so filed by the appellant is nothing, but an eye wash. An attempt has been made to explain the delay. The contents of the affidavit cannot be relied on as it is apparent that the same is tailor made just to overcome the delay. In the affidavit, it has been pointed out that Divisional Forest Officer had issued a letter on 26.01.2016.

The date had been filled without applying the mind and realizing that 26.01.2016 happened to be Republic day and all the offices are mandatorily closed on that date. No offices are open or can be opened on the Republic Day.

It is apparent that the reasons given in the affidavit are all fabricated.

Even keeping this issue aside, the original suit was decreed on 15.05.2000 on the basis of some compromise. If the appellants were

adversely affect by the order, they ought to have challenged the same within time, but this order was challenged after a gap/lapse of about 583 days and the appeal was also dismissed on the ground of delay. Still the appellant did not get up from slumber and, challenged the same by filing a civil revision against after a further gap/lapse of about **273 days**. The matter kept pending in the High Court for about **4167 days** and thereafter it was dismissed. Even after dismissal of the revision, which was well within the knowledge of the lawyers of the appellants, instant second appeal has been filed with the gap/lapse of about **517 days**. It is not a case that any of the order was passed *ex parte*. The counsel for the appellants were present before the courts below on each and every proceedings.

The reasons given in the delay condonation application and along with supplementary affidavit are not sufficient. The reasons are engineered. There has been inordinate delay in challenging the civil court's order, challenging the appellate court's order and further rejection of the civil revision assailing the civil court's order in this second appeal, which had not been sufficiently explained in the delay condonation application.

26. Before delving into the law laid down by Hon'ble Supreme Court on limitation, this Court would like to look into **Section 5 of the Limitation Act**, which reads as under:

“5. Extension of prescribed period in certain cases.— Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining

or computing the prescribed period may be sufficient cause within the meaning of this section.”

(emphasis added)

27. A plain reading of Section 5 of the Limitation Act clearly shows that an appeal may be admitted after the prescribed period, if the appellant satisfies the court that he had sufficient cause for not preferring the appeal within such time.

28. The burden to prove ‘sufficient cause’ lies on the appellant, who is seeking condonation of delay and he has to prove sufficient cause that the reasons for not approaching the court are real and bonafide and free of negligence. No doubt this expression has been constituted with justice-oriented approach so as to not punish an innocent litigant for circumstances beyond the control. However, the 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.

29. The length of delay normally is not a deciding factor while condoning the delay rather the conduct of the party seeking condonation of delay should be seen while doing so it should be seen and the court should see whether the party had any reasonable deliberations during the prescribed period. A long delay naturally casts a heavier burden on the applicant to furnish cogent, credible, and convincing explanations. The proof required becomes stricter in proportion to the delay. The longer time elapsed, the stronger the justification must be put forth.

30. Earlier the view of Hon’ble Supreme Court in the matter of ***G. Ramegowda, Major & Ors. v. Special Land Acquisition Officer, Bangalore, reported in (1988) 2 SCC 142*** was that a certain degree of

latitude must be extended to the State and its instrumentalities in matters concerning the condonation of delay, lest the rigidity of limitation operate to the detriment of public interest. A certain degree of leeway ought to be accorded to the Government and Public Authorities owing to the innate complexities in the way the State apparatus functions. Since the way inherent bureaucracy moves certain laxity should be provided to them.

31. Hon'ble Supreme Court in the matter of ***Chandra Mani (supra)*** reiterated that some latitude must be shown to the State and its instrumentalities in matters of condonation of delay. It observed that “the State represents the collective cause of the community” and so a pragmatic view ought to be adopted while dealing with applications for condonation of delay filed by public authorities. It further emphasised that technicalities of limitation should not result in grave injustice to the public interest, especially where the delay was not tainted by mala fides. The relevant observations read as under: -

“11. It is notorious and common knowledge that delay in more than 60 per cent of the cases filed in this Court — be it by private party or the State — are barred by limitation and this Court generally adopts liberal approach in condonation of delay finding somewhat sufficient cause to decide the appeal on merits. It is equally common knowledge that litigants including the State are accorded the same treatment and the law is administered in an even-handed manner. When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay — intentional or otherwise — is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature.

Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression “sufficient cause” should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice- oriented process. The court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-à-vis private litigant could be laid to prove strict standards of sufficient cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a decision or give appropriate permission for settlement. In the event of decision to file appeal needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while State is an impersonal machinery working through its officers or servants. Considered from this perspective, it must be held that the delay of 109 days in this case has been explained and that it is a fit case for condonation of the delay.”

(Emphasis added)

32. Thereafter, Hon'ble Supreme Court in the matter of ***Special Tehsildar, Land Acquisition v. K.V. Ayisumma, reported in (1996) 10 SCC 634*** held that since the State represents the collective cause of the public, any delay on its part ought not to be viewed through the same lens as that of a private party. It observed that adoption of a strict standard of proof in respect of the State or its instrumentalities, where no one takes personal responsibility in processing the matters expeditiously, would lead to grave miscarriage of public justice. Thus, it held that in such circumstances, the correct approach to be adopted is

to be pragmatic and condone the delay without insisting upon explaining every day's delay. The relevant observations read as under: -

“2. It is now settled law that when the delay was occasioned at the behest of the Government, it would be very difficult to explain the day-to-day delay. The transaction of the business of the Government was being done leisurely by officers who had no or evince no personal interest at different levels. No one takes personal responsibility in processing the matters expeditiously. As a fact at several stages, they take their own time to reach a decision. Even in spite of pointing at the delay, they do not take expeditious action for ultimate decision in filing the appeal. This case is one of such instances. It is true that Section 5 of the Limitation Act envisages explanation of the delay to the satisfaction of the court and in matters of Limitation Act made no distinction between the State and the citizen. Nonetheless adoption of strict standard of proof leads to grave miscarriage of public justice. It would result in public mischief by skilful management of delay in the process of filing the appeal. The approach of the Court should be pragmatic but not pedantic. Under those circumstances, the Subordinate Judge has rightly adopted correct approach and had condoned the delay without insisting upon explaining every day's delay in filing the review application in the light of the law laid down by this Court. The High Court was not right in setting aside the order. Delay was rightly condoned.”

(Emphasis added)

33. Then in the matter of ***State of Nagaland v. Lipok AO, reported in (2005) 3 SCC 752***, Hon'ble Supreme Court acknowledged the bureaucratic realities that on account of delay in governmental decision-making. It held that deference must be shown to the fact that governmental actions are “conducted by officers who cannot act on their own but must obtain approvals at different levels,” and thus, the element of delay is almost “inbuilt in the governmental decision-making process.” Accordingly, it held that factors which are peculiar to and characteristic of the functioning of the governmental conditions requires adoption of pragmatic and justice-oriented approach by the

courts in matters pertaining to condonation of delay. The relevant observations read as under: -

“13. Experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note making, file-pushing, and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. The State which represents collective cause of the community, does not deserve a litigant-non-grata status. The courts, therefore, have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression of sufficient cause. Merit is preferred to scuttle a decision on merits in turning down the case on technicalities of delay in presenting the appeal. Delay as accordingly condoned, the order was set aside and the matter was remitted to the High Court for disposal on merits after affording opportunity of hearing to the parties. In Prabha v. Ram Parkash Kalra [1987 Supp SCC 339] this Court had held that the court should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. The appeal was allowed, the delay was condoned and the matter was remitted for expeditious disposal in accordance with law.

15. It is axiomatic that decisions are taken by officers/agencies proverbially at a slow pace and encumbered process of pushing the files from table to table and keeping it on the table for considerable time causing delay — intentional or otherwise — is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression “sufficient cause” should, therefore, be considered with pragmatism in a justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-à-vis private litigant could be laid to prove strict standards of sufficient

*cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a decision or give appropriate permission for settlement. In the event of decision to file appeal, needed **prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any.** Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while the State is an impersonal machinery working through its officers or servants.*

(Emphasis added)

34. Hon'ble Supreme Court in ***Chandra Mani (supra)*** and ***Lipok AO (supra)*** explicitly held that the State or any of its instrumentalities cannot be put on the same footing as that of a private party for the purposes of condonation of delay under Section 5 of the Limitation Act. It observed that an individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while the State is an impersonal machinery working through its officers or servants, bound by bureaucratic methodology. Thus, it held that although equality before law is sacrosanct, equality does not mandate a refusal to recognise institutional realities.

35. However, what is equally significant to note is that the aforesaid observations of this Court in ***Chandra Mani (supra)*** and ***Lipok AO (supra)*** were accompanied by a clear message to the State and all its instrumentalities, that a leisurely and lethargic approach cannot continue for all times to come. The State and all public authorities were directed to constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts, if not then the endeavour should be made towards arriving at a settlement instead, rather than reagitating the belated causes before the courts. It further

observed that where the case requires an appeal or application to be filed, despite the delay, then prompt action should be taken by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any.

36. For a long period, the Court has noticed the lethargic and apathetic manner in which appeals are filed by the State and its instrumentalities. Such conduct of dilatory tactics and a bureaucratic approach has become the order of the day. Almost every second matter filed by the State is accompanied by an application for condonation of delay. It is then the Apex court took a divergent stand then what was taken earlier.

37. The Hon'ble Supreme Court in ***Postmaster General and others v. Living Media India Limited and another, reported in (2012) 3 SCC 563*** has held as under:

“27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

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

(Emphasis added)

38. In this judgement, the Hon'ble Supreme Court has clearly held that no delay can be condoned mechanically. The delay on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The Hon'ble Supreme Court has also clearly held that the law of limitation undoubtedly binds everybody including the Government equally. Condonation of delay is an exception and should not be used as a benefit for the government departments.

39. From the aforesaid, it is manifest that prior to the decision of Hon'ble Supreme Court in ***Postmaster General (supra)***, 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 West Bengal Vs. The Administrator, Howrah Municipality, reported in [1972] 2 SCR 874.*** and ***Lanka Venkateswarlu v. State of A.P., 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.

40. In ***State of Madhya Pradesh & Ors. v. Bherulal, reported in (2020) 10 SCC 654***, Hon'ble Supreme Court expressed its deep anguish over the routine manner in which the State and its instrumentalities continue to seek condonation of delay on the pretext of bureaucratic inefficiencies. It held that the earlier decisions that had afforded a degree of leeway for such inefficiencies no longer reflects the correct position of law insofar as condonation of delay is concerned. It was further held that in view of the decision of ***Postmaster General (supra)***, any delay as a result of unavailability of the documents or the process of arranging them through bureaucratic process is no longer an acceptable "reason or excuse" to condone such delay.

41. A similar view was reiterated by Hon'ble Supreme Court in ***Government of Maharashtra (Water Resources Department) represented by Executive Engineer v. Borse Brothers Engineers and Contractors Pvt. Ltd., reported in (2021) 6 SCC 460***, wherein the Court placing reliance on ***Postmaster General (supra)*** held that a different yardstick for condonation of delay cannot be laid down merely because the Government is involved. The relevant observations read as under: -

"59. Likewise, merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in Postmaster General v. Living Media (India) Ltd."

(Emphasis added)

42. In ***State of Odisha & Ors. v. Sunanda Mahakuda, reported in (2021) 11 SCC 560***, Hon'ble Supreme Court held that the leeway which was earlier enjoyed by the State and its instrumentalities on account of bureaucratic inefficiencies in matters of condonation of delay is no longer available in view of the technological advancement

and the shift in jurisprudence as elucidated in *Postmaster General (supra)*. It observed that no case under Section 5 of the Limitation Act could be said to be made out where there is no reason or excuse given in respect of the period for which condonation is sought.

43. Similarly, in *State of U.P. v. Sabha Narain*, reported in (2022) 9 SCC 266, Hon'ble Supreme Court once again deprecated the tendency of State and its instrumentalities to proceed on the assumption that they may approach the courts at their own convenience and sweet will, disregarding the period of limitation prescribed by statute, as though the Limitation statute does not apply to them. It held that the leeway which was at one point extended to the Government/public authorities on account of innate functional inefficiencies is no more the norm, particularly in the wake of the decision of *Postmaster General (supra)*. The relevant observations read as under: -

“3. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgments in State of M.P. v. Bherulal [State of M.P. v. Bherulal, (2020) 10 SCC 654 : (2021) 1 SCC (Cri) 117 : (2021) 1 SCC (Civ) 101 : (2021) 1 SCC (L&S) 84] and State of Odisha v. Sunanda Mahakuda [State of Odisha v. Sunanda Mahakuda, (2021) 11 SCC 560 : (2022) 1 SCC (Cri) 300 : (2022) 2 SCC (L&S) 393]. The leeway which was given to the Government/public authorities on account of innate inefficiencies was the result of certain orders of this Court which came at a time when technology had not advanced and thus, greater indulgence was shown. This position is no more prevalent and the current legal position has been elucidated by the judgment of this Court in Postmaster General v. Living Media India Ltd. [Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] Despite this, there seems to be little change in the approach of the Government and public authorities.”

(Emphasis added)

44. In ***Union of India v. Jahangir Byramji Jeejeebhoy, reported in 2024 SCC OnLine SC 489***, Hon'ble Supreme Court held that it hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning a gross delay in filing of an appeal or application, as the case may be. It held that unless the Department has reasonable and acceptable reason for the delay and there was bona fide 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 relevant observations read as under: -

“25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

xxx xxx xxx

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

xxx xxx xxx

30. In Postmaster General v. Living Media India Limited, (2012) 3 SCC 563, this Court, while dismissing the application for condonation of delay of 427 days in filing the Special Leave Petition, held that condonation of delay is not an exception and it should not be used as an anticipated benefit for the government departments. In

that case, this Court held that unless the Department has reasonable and acceptable reason for the delay and there was bona fide 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 cannot be accepted. [...]

(Emphasis added)

45. In this judgement the Apex court had further held that when it comes to Section 5 of the Limitation Act, delay should not be excused as a matter of generosity. Rendering substantial justice is not a free-pass to cause prejudice to the opposite party. The vital test for condoning the delay is for the party that is praying for such condonation to prove that it was reasonably diligent in prosecuting the matter.

46. Once the State chooses to litigate, it must shoulder the same responsibilities and abide by the same limitations that bind every litigant. To permit the State to evade the consequences of delay on the ostensible plea that the fault lay with individual officers would amount to diluting the rigour of limitation statutes and undermining their very object. Such an approach would not only privilege the State unjustly over private parties but would also perpetuate a culture of indifference and irresponsibility within the administration.

47. The Hon'ble Supreme Court in the latest judgement passed in the matter of ***Shivamma (Dead) by L.Rs. vs. Karnataka Housing Board and Ors., reported in MANU/SC/1262/2025*** has held as under:

“261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient

cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

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 Code of Civil Procedure, 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.”

(Emphasis added)

48. The Hon'ble Supreme Court in this judgement has clearly stated that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and it shall not be condoned on

frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to prove that they have acted with bona fides and remained vigilant in pursuing the lis throughout and for some unforeseen reason, the appeal could not be filed then only the delay can be condoned.

49. In this judgement the Apex Court has further held that, no court, especially a constitutional court, shall obviate the procedure applicable to a litigating State and its instrumentalities, which must be placed on the same footing as other litigants when it comes to applications under the Limitation Act.

50. In light of the ratio laid down by latest judgement passed Hon'ble Supreme Court in the matter of *Shivamma (Dead) by LRs (supra)*, it is clear that limitation laws are themselves grounded in public policy, as already discussed in the preceding paragraphs of this judgment, it is based on the maxim '*interest reipublicae ut sit finis litium*' i.e., "it is for the general welfare that a period be put to litigation". Therefore, public interest is better served by timely governmental action than by condoning repeated lapses. State cannot simultaneously seek to represent the interest of the public and yet consistently fail to protect that very interest by allowing limitation periods to lapse.

51. Public interest is best served by ensuring efficiency and diligence in governmental functioning, rather than by condoning its lapses as a matter of course. Thus, a liberal inclination towards the State or any of its instrumentalities, in matters of condonation of delay, cannot be adopted. Merely on the presumption that, if the delay is not condoned, public interest runs the risk of a meritorious matter being thrown out. Public interest lies not in condoning governmental indifference, but in compelling efficiency, responsibility, and timely action.

52. To allow condonation of delay as a matter of course, for the Government would have the deleterious effect of institutionalising inefficiency. It would, in substance, incentivise indolence and foster a culture where accountability for delay is eroded. If the State is assured that its lapses will invariably be excused under the rubric of “public interest,” there would remain little incentive for its officers to act with vigilance or for its instrumentalities to streamline procedures for timely action. The consequence would not be the advancement of public interest but rather its betrayal.

53. The Hon’ble Supreme Court earlier had laid down that the lenient view should be taken for condonation of delay, if the same is filed on behalf of the State and its instrumentalities on the ground that refusal might affect a meritorious matter. Public interest is not synonymous with the cause of the Government; it is, instead, synonymous with the enforcement of rule of law, certainty in legal rights, and an administrative machinery that functions with diligence and accountability. Hence, refusal to entertain meritorious matter, would not be a touchstone for the condonation of delay.

54. The Hon’ble Supreme Court in the matter of *Shivamma (Dead) by LRs (supra)* has held that the guiding principle is not the protection of governmental indifference but the promotion of responsible governance. The State is under a higher duty to act in time, for in every matter it litigates, it does so not in its private capacity, but as the trustee of the people’s interest. Hence, repeated indulgence in condoning delays on grounds of bureaucratic inefficiency would amount to eroding the very object of limitation statutes, which are enacted in every civilised jurisdiction for the sake of finality, certainty, and public order.

55. If the State is granted a special treatment when he comes for condonation of delay then it will deviate the object of the Limitation Act and would further encourage the State and its officers' inaction and casual behaviour. The earlier ratio if followed would give the officer a "*carte blanche*" power to act against the public. Hon'ble Supreme Court has further held that the delay cannot be condoned, merely because, not doing so would result in non-suiting the State and thereby run the ostensible risk of public interest suffering. Such by no stretch can be the sole consideration for the purpose of Section 5 of the Limitation Act, as to do so would be to ignore the provision of Section 3 and the overarching public policy of giving "*quietus to lis*", that forms the bedrock of the Limitation Act.

56. While dealing with an application for condonation of delay, the vital test is whether "sufficient cause" has been made out. However, in cases involving bureaucratic inefficiency, the Court must examine whether there is a valid explanation for the delay or merely an excuse has been set up. Though the two concepts may sometimes overlap, there is a fine distinction between a genuine explanation and a mere excuse, which the appellant is required to establish satisfactorily.

57. Whenever an explanation in an application for condonation of delay refers to bureaucratic delay and the inherent complexities of governmental decision-making, the same would, in most cases, fall within the ambit of an "excuse. Hon'ble Supreme Court, in ***Postmaster General (supra)*** and ***Shivamma (Dead) by LRs (supra)*** as well as in several other judgments has held that where there is bureaucratic lethargy or red-tapism, the Court must examine whether there exists a genuine reason and whether there was due promptitude in the conduct of the officers. However, where the Court finds that the explanation is merely an excuse to cover up the delay, or that the delay is attributable

to gross negligence, deliberate inaction, lack of bona fides, or a casual approach, the Court ought to adopt a strict view while dealing with an application for condonation of delay.

58. In the present case, the appeal arose out of a very trivial matter. The appellants placed an order for supply of bricks, which plaintiffs/respondent had supplied, but when the money was not paid, the plaintiff/respondent filed a suit for recovery, which was allowed and a **decree of Rs.24,966/-** was passed. Subsequently a civil appeal was filed with the **delay of almost 16 months** and the same was dismissed on 23.07.2003 and again a civil revision was wrongly filed that too with a gap/lapse of about **273 days** on 21.04.2004, which was dismissed as not maintainable and then again instant second appeal has been filed on 16.02.2017 **with a delay of almost 517 days** challenging the order dated 23.07.2003. Apparently there was a gap/lapse of about **4957 days** in filing instant second appeal. Even giving benefit to the appellant for challenging the same before wrong a forum, still the present appeal is delayed by about 700 days and the reasons for condonation of delay are not sufficient rather the reasons shown is nothing but an eye wash and present appeal has been filed after thought. The affidavit filed in support of the application for condonation of delay shows that the Divisional Forest Officer written a letter on 26.01.2016 is not sufficient. Rather it seems a subsequent efforts has been done to fill in the lacuna by filing Supplementary Affidavit and while doing so the reasons stated cannot be trusted.

The date had been filled without applying the mind and realizing that 26.01.2016 had happened Republic day and all the offices are mandatorily closed on that date. No offices are open or can be opened on the Republic Day.

59. Since the rule of limitation are based on principle of sound public policy, hence it cannot be contended in a mechanical manner. The

appellant has been pursuing a trivial issue of Rs.24,966/- upto this Court. All the proceedings initiated after the dismissal of the civil suit have been filed with the **delay**.

60. In view of the aforesaid facts and circumstances of the case, since sufficient cause is not made out for condonation of delay in filing second appeal, the application for condonation of delay is **rejected**.

61. Consequently, this second appeal is also **dismissed**.

Filing of Trivial & Frivolous cases

62. Apparently, present appeal is a perfect example of delay, callous approach of the appellant on trivial issue a decree of Rs.24,966/- had been challenged by the appellant in three various forums. It would not be incorrect to say that the State Government may have incurred litigation expenses exceeding the decretal amount awarded against it. This case has also been argued at length before this Court. It is high time until and unless an exemplary cost is imposed on the State, nothing is going to change.

63. Filing of trivial and frivolous litigation is a menace, which the Court had been facing, to curb the problem of legal pendency and to curb the filing of trivial and frivolous cases, the National Litigation Policy for the Centre and States was evolved at All India Law Ministers Conference in the year 1972, this was followed by the report of the Law Commission of India, which in its 54th had reported that, there should not be unnecessary litigation or appeals.

64. Thereafter Hon'ble Supreme Court in *Dilbagh Rai Jerry v. Union of India, reported in (1974) 3 SCC 554* considered as to what should be the approach of Government in litigation to curb this problem and observed as under:

“The judgment just delivered has my full concurrence but I feel impelled to make a few observations not on the merits but on governmental disposition to litigation, the present case being symptomatic of a serious deficiency. In this country the State is the largest litigant to-day and the huge expenditure involved makes a big draft on the public exchequer. In the context of expanding dimensions of State activity and responsibility, is it unfair to expect finer sense and sensibility in its litigation policy, the absence of which, in the present case, has led the Railway callously and cantankerously to resist an action by its own employee, a small man, by urging a mere technical plea which has been pursued right up to the summit court here and has been negated in the judgment just pronounced. Instances of this type are legion as is evidenced by the fact that the Law Commission of India in a recent report on amendments to the Civil Procedure Code has suggested the deletion of Section 80, finding that wholesome provision hardly ever utilised by Government, and has gone further to provide a special procedure for government litigation to highlight the need for an activist policy of just settlement of claims where the State is a party. It is not right for a welfare State like ours to be Janus-faced, and while formulating the humanist project of legal aid to the poor, contest the claims of poor employees under it pleading limitation and the like. That the tendency is chronic flows from certain observations I had made in a Kerala High Court decision which I may usefully excerpt here “The State, under our Constitution, undertakes economic activities in a vast and widening public sector and inevitably gets involved in disputes with private individuals. But it must be remembered that the State is no ordinary party trying to win a case against one of its own citizens by hook or by crook; for the State's interest is to meet honest claims, vindicate a substantial defence and never to score a technical point or overreach a weaker party to avoid a just liability or secure an unfair advantage, simply because legal devices provide such an opportunity. The State is a virtuous litigant and looks with unconcern on immoral forensic successes so that if on the merits the case is weak, government shows a willingness to settle the dispute regardless of prestige and other lesser motivations which move, private parties to fight in court. The lay-out on litigation costs and executive time by the State and its agencies is so staggering these days because of the large amount of litigation in which it is involved that a positive and wholesome policy of cutting back on the volume of law suits by the twin methods of not being tempted into forensic show-downs where a reasonable adjustment is feasible and ever offering to extinguish a pending proceeding on just terms, giving the legal mentors of government

some initiative and authority in this behalf. I am not indulging in any judicial homily but only echoing the dynamic national policy on State litigation evolved at a Conference of Law Ministers of India way back in 1957. This second appeal strikes me as an instance of disregard of that policy.”

(Emphasis added)

65. Thereafter in the case of **Mundrika Prasad Singh v. State of Bihar**, reported in (1979) 4 SCC 701, Hon'ble Supreme Court held as under:

“5. The State of Bihar, like many other States in the country, has an enormous volume of litigation. Government litigation policy is vital for any State if resources are to be husbanded to reduce rather than increase its involvement in court proceedings. It is lamentable that despite a national litigation policy for the States having been evolved at an all-India Law Ministers' Conference way back in 1957 and despite the recommendations of the Central Law Commission to promote settlement of disputes where Government is a party what we find in actual practice is a proliferation of government cases in courts uninformed by any such policy. Indeed, in this country where government litigation constitutes a sizeable bulk of the total volume, it is important that the State should be a model litigant with accent on settlement. The Central Law Commission, recalling a Kerala decision, emphasised this aspect in 1973 and went to the extent of recommending a new provision to be read as Order 27 Rule 5B.”

(Emphasis added)

66. However, the litigation policy was not followed, the **Law Commission of India in its 126th Report (1988)** adversely commented upon the reckless manner in which appeals are filed routinely. The relevant paragraphs of the law Commission Report is as follows:

“2.5. The litigation is thus sometimes engendered by failing to perform duty as if discharging a trust. Power inheres a kind of trust. The State enjoys the power to deal with public property. That power has to be discharged like a trust keeping in view the interests of the cesti que trust. Failure on this front has been more often commented upon by the court which, if it was taken in the spirit in which it was

made, would have long back energised the Government and the public sector to draw up its litigation policy. When entirely frivolous litigation reaches the doorsteps of the Supreme Court, one feels exasperated by the inaction and the policy of do nothingness evidenced by blindly following litigation from court to court. Dismissing a Special Leave Petition by the State of Punjab, the Court observed that the deserved defeat of the State in the courts below demonstrates the gross indifference of the administration towards litigative diligence. The court then suggested effective remedial measures. It may be extracted:

We would like to emphasize that Government must be made accountable by parliamentary Social audit for wasteful litigative expenditure inflicted on the community by inaction. A statutory notice of the proposed action under Section 80 CPC is intended to alert the state to negotiate a just settlement or at least have the courtesy to tell the potential outsider why the claim is being resisted. Now Section 80 has become a ritual because the administration is often unresponsive and hardly lives up to parliament's expectation in continuing Section 80 in the Code despite the Central Law Commission's recommendations for its deletion. An opportunity for settling the dispute through arbitration was thrown away by sheer inaction. A litigative policy for the State involves settlement of governmental disputes with citizens in a sense of conciliation rather than in a fighting mood. Indeed, it should be a directive on the part of the State to empower its law officer to take steps to compose disputes rather than continue them in court. We are constrained to make these observations because much of the litigation in which governments are involved adds to the case load accumulation in courts for which there is public criticism. We hope that a more responsive spirit will be brought to bear upon governmental litigation so as to avoid waste of public money and promote expeditious work in courts of cases which deserve to be attended to."

(Emphasis added)

67. Decades have passed, but nothing moved time and again, the constitutional courts lamented about the frivolous appeals/petitions being filed by the Government agencies. However, there was no affect on the bureaucratic psyche. It was not that there is no realization at the level of policy makers to curtail unwanted Government litigation, but

the ground reality is completely contrary. Appeals after appeals have been filed by the Government agencies on trivial issues. It should not even succeed on the test of legality, but still were filed for various reasons.

68. It was only in 2010 the Central Government formulated National Litigation Policy, with the “vision/mission” to transform the Government into an efficient and responsible litigant. This policy formulated by the Central Government is based on the recognition that it was its primary responsibility to protect the rights of citizens, and to respect their fundamental rights and in the process it should become “responsible litigant”. The policy even defines the expression ‘responsible litigant’ as under:

“Responsible litigant” means—

- (i) That litigation will not be resorted to for the sake of litigating.*
- (ii) That false pleas and technical points will not be taken and shall be discouraged.*
- (iii) Ensuring that the correct facts and all relevant documents will be placed before the Court.*
- (iv) That nothing will be suppressed from the Court and there will not attempt to mislead any court or tribunal.*

2. That Government must cease to be a compulsive litigant. The philosophy that matters should be left to the courts for ultimate decision has to be discarded. The easy approach, “Let the Court decide”, must be eschewed and condemned.

3. The purpose underlying this policy is also to reduce government litigation in courts so that valuable court time would be spent in resolving other pending cases so as to achieve the goal in the national legal mission to reduce average pendency time from 15 years to 3 years. Litigators on behalf of the Government have to keep in mind the principles incorporated in the national mission for judicial reforms which includes identifying bottlenecks which the Government

and its agencies may be concerned with and also removing unnecessary government cases.

Prioritisation in litigation has to be achieved with particular emphasis on welfare legislation, social reform, weaker sections and senior citizens and other categories requiring assistance must be given utmost priority.”

(Emphasis added)

69. This policy recognises the fact that its success will depend upon its strict implementation. Pertinently there is even a provision of accountability on the part of the officers who have to take requisite steps in this behalf.

70. In the matter of ***Urban Improvement Trust, Bikaner v. Mohan Lal, reported in (2010) 1 SCC 512***, Hon'ble Supreme Court took notice of unwarranted litigation by Governments and State authorities and held as under:

“10. Unwarranted litigation by governments and statutory authorities basically stem from the two general baseless assumptions by their officers. They are:

(i) All claims against the government/ statutory authorities should be viewed as illegal and should be resisted and fought up to the highest court of the land.

(ii) If taking a decision on an issue could be avoided, then it is prudent not to decide the issue and let the aggrieved party approach the Court and secures a decision.

The reluctance to take decisions, or tendency to challenge all orders against them, is not the policy of the governments or statutory authorities, but is attributable to some officers who are responsible for taking decisions and/or officers in charge of litigation. Their reluctance arises from an instinctive tendency to protect themselves against any future accusations of wrong decision making, or worse, of improper motives for any decision making. Unless their insecurity and fear is addressed, officers will continue to pass on the responsibility of decision-making to courts and Tribunals.

11. The Central Government is now attempting to deal with this issue by formulating realistic and practical norms for defending cases filed against the government and for filing appeals and revisions against adverse decisions, thereby, eliminating unnecessary litigation. But, it is not sufficient if the Central Government alone undertakes such an exercise. The State Governments and the statutory authorities, who have more litigations than the Central Government, should also make genuine efforts to eliminate unnecessary litigation. Vexatious and unnecessary litigations have been clogging the wheels of justice, for too long making it difficult for courts and Tribunals to provide easy and speedy access to justice to bona fide and needy litigants.”

(Emphasis added)

71. Hon'ble Supreme Court in the matter case of ***Gurgaon Gramin Bank v. Khajani, reported in (2012) 8 SCC 781***, considered the approach of Government to litigate in small and trivial matters and held as under:

*“2. Number of litigations in our country is on the rise, for small and trivial matters, people and sometimes Central and State Governments and their instrumentalities Banks, nationalized or private, come to courts may be due to ego clash or to save the Officers' skin. **Judicial system is over-burdened, naturally causes delay in adjudication of disputes.** Mediation centers opened in various parts of our country have, to some extent, eased the burden of the courts but we are still in the tunnel and the light is far away. On more than one occasion, this Court has reminded the Central Government, State Governments and other instrumentalities as well as to the various banking institutions to take earnest efforts to resolve the disputes at their end. At times, some give and take attitude should be adopted or both will sink. Unless, serious questions of law of general importance arise for consideration or a question which affects a large number of persons or the stakes are **very high, courts' jurisdiction cannot be invoked for resolution of small and trivial matters.**”*

(Emphasis added)

72. Hon'ble Supreme Court in the matter of ***Punjab State Power Corporation Limited Patiala and others v. Atma Singh Grewal, reported in (2014) 13 SCC 666*** held as under:

“13. Alas, inspite of the Government's own policy and reprimand from this Court, on numerous occasions, there is no significant positive effect on various Government officials who continue to take decision to file frivolous and vexatious appeals. It imposes unnecessary burden on the Courts. The opposite party which has succeeded in the Court below is also made to incur avoidable expenditure. Further, it causes delay in allowing the successful litigant to reap the fruits of the judgment rendered by the Court below.

*14. No doubt, when a case is decided in favour of a party, the Court can award cost as well in his favour. It is stressed by this Court that such cost should be in real and compensatory terms and not merely symbolic. There can be exemplary costs as well when the appeal is completely devoid of any merit. [See Rameshwari Devi and Ors. v. Nirmala Devi and Ors.; (2011) 8 SCC 249]. However, the moot question is as to **whether imposition of costs alone will prove deterrent?** We don't think so. We are of the **firm opinion that imposition of cost on the State/ PSU's alone is not going to make much difference as the officers taking such irresponsible decisions to file appeals are not personally affected because of the reason that cost, if imposed, comes from the government's coffers. Time has, therefore, come to take next step viz. recovery of cost from such officers who take such frivolous decisions of filing appeals, even after knowing well that these** are totally vexatious and uncalled for appeals. We clarify that such an order of recovery of cost from the concerned officer be passed only in those cases where appeal is found to be ex-facie frivolous and the decision to file the appeal is also found to be palpably irrational and uncalled for.”*

(Emphasis added)

73. Hon'ble Supreme Court in the matter of **Pandurang Vithal Kevne v. Bharat Sanchar Nigam Limited and another**; Special Leave Petition (Civil) Diary No.56230 of 2024 held as under:

“18. The petitioner's repeated and frivolous litigation has wasted the court's valuable time and resources. It is in interest of justice that genuine and timely claims are addressed efficiently, without being hindered by such unscrupulous litigation. We may refer here an observation given by this Court in Subrata Roy Sahara Vs Union of India⁵: “150. The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter

litigants from their compulsive obsession, towards senseless and ill-considered claims. One needs to keep in mind, that in the process of litigation, there is an innocent sufferer on the other side, of every irresponsible and senseless claim. He suffers long drawn anxious periods of nervousness and restlessness, whilst the litigation is pending, without any fault on his part.”

20. Time and again, this Court has raised deterrence against frivolous appeals and petitions by imposition of costs on the litigating parties. This court in the case of K.C. Tharakan Vs State Bank of India & Ors.⁷ held the following: “No legal system can have a scenario where a person keeps on raking up the issue again and again once it is resolved at highest level. This is complete wastage of judicial time. We, thus, dismiss this petition with costs, though we limit the amount of costs considering the petitioner is a dismissed person. The writ petition is dismissed with costs of Rs.10,000/- to be deposited with the Supreme Court Advocates-on-Record Welfare Fund to be utilized for the SCBA library.”

22. Considering that precious time of this Court and the High Court was wasted by the petitioner; in our opinion the petitioner deserves to be burdened with heavy cost, to give clear message to the unscrupulous litigants like the petitioner for not daring to play with the Judicial System. Such type of litigants are not only polluting the stream of justice but putting hurdles in its dispensation to others. The precious judicial time which the petitioner has wasted, could very well be used for taking up the cases of other litigants who are waiting for justice. In fact these types of litigants are choking the system of the court, which is resulting in delays in decision of other cases. It is also the duty of the Courts at different levels to curb such type of litigation so that more time is available for dealing with genuine litigation.”

(Emphasis added)

74. Even the State of U.P. came out with a National Litigation Policy, but the same has not been followed.

75. In spite of the Government's own policy and reprimand from the Apex Court, on numerous occasions, there is no significant positive effect on various Government officials who continue to take decision to file trivial, frivolous and vexatious appeals. It imposes unnecessary burden on the Courts.

76. The opposite party which has succeeded in the Court below is also made to incur avoidable expenditure. Further, it causes delay in allowing the successful litigant to reap the fruits of the judgment rendered by the Court below.

77. It is a classic case where small money decree, which is less than Rs.25,000/-, the State had filed an appeal and thereafter preferred a revision before this Court and after dismissal of the same, instant second appeal has been filed before this Court. On the whole, the State appears to have spent more money than the decreed amount in pursuing the present litigation. Apart from this, valuable time of this Court has also been consumed.

78. The Government of India has taken a policy decision not to pursue appeals in trivial matters relating to income tax and other taxes. However, the State is still sleeping and no serious decision has been taken nor any serious litigation policy has been made and followed.

79. Looking into the period of delay and casual manner in which the appellant had proceeded to file the appeal, such kind of trivial and frivolous litigation clogs the wheel of justice and the poor genuine litigant do not get chance of hearing, this practice has to be stopped. This Court find it a fit case to impose a cost on the appellants, to curb this practice.

80. Accordingly, a cost of Rs.50,000/- (Rupees Fifty Thousand Only) is imposed on the appellants. The amount of cost will be paid to the widows of C.R.P.F. personnel, who had lost their lives fighting with Naxalites. Accordingly, the cost shall be paid to the “C.R.P.F. Family Welfare Association”, Block-I, CGO Complex, Lodhi Road, New Delhi.

81. Since putting a cost on the State will not solve the problem, the only way to push the officers to get out the slumber is, if the cost so imposed may be recovered from them. Hence, it is open for the appellant, if they so desire, to recover the said amount of cost from the officers, who were responsible for the delay in filing the proceedings before different courts.

82. Before parting, I would like to appreciate my Research Associate, Mr. Utkarsh Shukla, for his in-depth research and valuable assistance rendered by him in the preparation of this judgment.

(Prashant Kumar,J.)

February 13, 2026

Anupam S/-