

Zila Lekha Pariksha ... vs Mohan Lal And 5 Others on 1 April, 2025

Author: Abdul Moin

Bench: Abdul Moin

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:17919

Court No. - 5

Case :- FIRST APPEAL FROM ORDER DEFECTIVE No. - 65 of 2025

Appellant :- Zila Lekha Pariksha Adhikari, Barabanki And Another

Respondent :- Mohan Lal And 5 Others

Counsel for Appellant :- C.S.C.

Hon'ble Abdul Moin, J.

(C.M.Application No.1 of 2025)

1. Heard on the application for condonation of delay.
2. Instant appeal has been filed with a delay of 1032 days as on 25.03.2025.
3. Reasons given in the affidavit filed in support of the application are patently cavalier for the reason that the judgment and award is said to be dated 24.03.2022 while a letter is said to have been sent on 13.04.2022 to the D.G.C. (Civil) for legal opinion as well as for filing recall of the aforesaid order. In pursuance thereof a letter has been sent after more than 2 years i.e. on 24.07.2024 to the D.G.C. (Civil) for legal opinion. Nothing emerges in the said affidavit as to why the appellants sat over the matter for a period of 2 years in order to seek legal opinion which itself reflects patent lackadaisical and cavalier attitude on the part of the appellants in filing the instant appeal with a substantial delay and without any reasonable explanation for the same.

4. The delay which often occurs on the part of the State in filing the appeals/revisions has been considered threadbare by the Apex Court in the case of Chief Post Master General & Ors. vs. Living Media India Ltd. & Anr. reported in (2012) 3 SCC 563 wherein the Apex Court after placing reliance on various earlier judgments of the Apex Court, 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 bona fides, 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 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 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."

5. Likewise, the Apex Court in the case of Union of India vs. Central Tibetan Schools Admin and Ors. reported in (2021) SCC OnLine 119 has held as under:-

"4. We have heard the learned Additional Solicitor General for some time and must note that the only error which seems to have occurred in the impugned order [Union of India v. Central Tibetan Schools Admn., 2018 SCC OnLine Del 13371] is of noticing that it is not an illiterate litigant because the manner in which the Government is prosecuting its appeal reflects nothing better! The mighty Government of India is manned with a large Legal Department having numerous officers and advocates. The excuse given for the delay is, to say the least, preposterous.

5. We have repeatedly been counselling through our orders various Government Departments, State Governments and other public authorities that they must learn to file appeals in time and set their house in order so far as the Legal Department is concerned, more so as technology assists them. This appears to be falling on deaf ears despite costs having been imposed in a number of matters with the direction to recover it from the officers responsible for the delay as we are of the view that these officers must be made accountable. It has not had any salutary effect and that the present matter should have been brought up, really takes the cake!

6. The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. 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 judgment in *State of M.P.v.Bherulal* [*State of M.P.v.Bherulal*, (2020) 10 SCC 654 : (2021) 1 SCC (Civ) 101 : (2021) 1 SCC (Cri) 117 : (2021) 1 SCC (L&S) 84] and *State of Odishav.Sunanda Mahakuda* [*State of Odishav.Sunanda Mahakuda*, (2021) 11 SCC 560] . 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 Generalv.Living Media (India) Ltd.* [*Postmaster Generalv.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 a little change in the approach of the Government and public authorities.

7. We have also categorised such kind of cases as "certificate cases" filed with the only object to obtain a *quietus* from the Supreme Court on the ground that nothing could be done because the highest Court has dismissed the appeal. The objective is to complete a mere formality and save the skin of the officers who may be in default in following the due process or may have done it deliberately. We have deprecated such practice and process and we do so again. We refuse to grant such certificates and if the Government/public authorities suffer losses, it is time when officers concerned responsible for the same, bear the consequences. The irony, emphasised by us repeatedly, is that no action is ever taken against the officers and if the Court pushes it, some mild warning is all that happens.

8. Looking to the gross negligence and the impunity with which the Union of India had approached this Court in a matter like this, we consider it appropriate to impose special costs of Rs 1 lakh in this case to be recovered from the officer(s) concerned, to be deposited with the Supreme Court Advocates-on-Record Welfare Fund within four

weeks.

9. The special leave petitions are dismissed as time-barred in terms aforesaid. Pending application stands disposed of."

6. Incidentally, the judgment of the Apex Court in the case of Central Tibetan Schools (supra) is a judgment by three Hon'ble Judges.

7. The Apex Court in the case of Commissioner of Customs, Chennai vs. Volex Interconnect (India) Pvt. Ltd. reported in (2022) 3 SCC 159 has held as under:-

"2. This is one more case of what we have already categorised as "certificate cases" and we do not delve further, as the purpose seems just to bring the matter to the Courts to put a closure to the same without giving any cogent explanation for condonation of delay in terms of Postmaster Generalv. Living Media (India) Ltd. [Postmaster Generalv.Living Media (India) Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649].

3. We have also examined the case on merits despite the aforesaid and find that a correct view has been taken by the Tribunal as the Department itself is treating the assessee in the same manner for subsequent years so far as classification is concerned.

4. We are thus of the view that for both the aforesaid reasons, the appeal is not liable to be entertained. The appeal is dismissed accordingly."

8. Recently, the Hon'ble Supreme Court in the case of Pathupati Subba Reddy (Died) by L.Rs. & Ors. vs. The Special Deputy Collector (LA) [2024] 4 S.C.R. 241 has held as under:-

"16. Generally, the courts have adopted a very liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In Collector, Land Acquisition, Anantnag and Ors. vs. Katiji and Ors.², this Court in advocating the liberal approach in condoning the delay for 'sufficient cause' held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of 'sufficient cause' for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases liberal approach, justice-oriented approach and cause for the advancement of

'substantial fustice cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation. Act.

17. It must always be borne in mind that while construing 'sufficient cause' in deciding application under Section 5 of the Act, that on the expiry of the period of limitation prescribed for filing an appeal, substantive right in favour of a decree-holder accrues and this right ought not to be lightly disturbed. The decree-holder treats the decree to be binding with the lapse of time and may proceed on such assumption creating new rights.

18. This Court as far back in 1962 in the case of Ramlal, Motilal And Chhotelal vs. Rewa Coalfields Ltd has emphasized that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as excusing the delay is the discretionary jurisdiction vested with the court. The court, despite establishment of a 'sufficient cause' for various reasons, may refuse to condone the delay depending upon the bona fides of the party."

9. Again, the Hon'ble Supreme Court in the case of State of Madhya Pradesh vs. Ramkumar Choudhary reported in 2024 INSC 932 has held as under:-

"5. The legal position is that where a case has been presented in the Court beyond limitation, the petitioner 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 Majji Sannemma v. Reddy Sridevi, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of this Court in Ajay Dabra v. Pyare Ram wherein, it was held as follows:

"13. This Court in the case of Basawaraj v. Special Land Acquisition Officer ((2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"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."

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant."

Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party.

5.1. In *Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir* (2024) SCC OnLine SC 489 wherein, one of us (J.B.Pardiwala, J) was a member, after referring to various decisions on the issue, it was in unequivocal terms observed by this Court that delay should not be excused as a matter of generosity and rendering substantial justice is not to cause prejudice to the opposite party. The relevant passage of the same is profitably extracted below:

"24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.

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.

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is

equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

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.

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34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.

36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs."

Applying the above legal proposition to the facts of the present case, we are of the opinion that the High Court correctly refused to condone the delay and dismissed the appeal by observing that such inordinate delay was not explained satisfactorily, no sufficient cause was shown for the same, and no plausible reason was put forth by the State. Therefore, we are inclined to reject this petition at the threshold."

10. In the aforesaid judgments, the Hon'ble Supreme Court has been of the view that where a case has been presented in the Court beyond limitation, the person 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. Though limitation may harshly affect the rights of a party, it has to be applied with all rigour when prescribed by statute.

11. In the instant case, as already indicated above, there has been a casual, cavalier and lackadaisical approach on the part of the appellant and thus, the grounds, as taken in the application for condonation of delay, do not inspire confidence and consequently, the application for condonation of delay merit to be rejected and is accordingly, rejected.

(Order on Appeal)

12. Since the application seeking condonation of delay has been rejected, the appeal also stands dismissed.

Order Date :- 1.4.2025/prateek