(2025) 10 AHC CK 0040

Allahabad HC

Case No: Special Appeal Defective No. 345 Of 2025, Connected With Special Appeal Defective No. 418 Of 2024

State Of U.P — APPELLANT

Vs

Ram Nayan Yadav And 2 Others — RESPONDENT

Date of Decision: Oct. 14, 2025

Acts Referred:

- Limitation Act, 1963 — Section 5
- Allahabad High Court Rules, 1952 — Chapter 8 Rule 5, Chapter 9 Rule 10

Hon'ble Judges: Rajeev Bharti, J; Rajan Roy, J

Bench: Division Bench

Advocate: Shivji Shukla, Prabhat Narayan Srivastava, Puneet Chandra, Vinod Kumar Pandey, Rakesh Kumar Srivastava, Vinod Kumar Pandey, Lalta Prasad Misra, Ashutosh Mishra, Mohit Chandra, Puneet Chandra

Final Decision: Dismissed

Judgement

Rajeev Bharti, J

1. Heard Sri Sudeep Kumar, learned Additional Advocate General assisted by Sri Ranvijay Singh, learned Addl. C.S.C. for the appellant and Sri Sudhir Pandey and Sri Puneet Chandra, learned counsel for respondent no.1.

2. These are two appeals one bearing Special Appeal Defective No.345 of 2025 by the State challenging judgment and order dated 21.07.2023 passed in Writ-A No.3696 of 2005. The other appeal bearing Special Appeal Defective No.418 of 2024 is by the Committee of Management of the Institution. Both the appeals are belated. Special Appeal Defective No.345 of 2025 has been filed with a delay of 533 days whereas

Special Appeal Defective No.418 of 2024 has been filed with a delay of 348 days. First of all, we may consider the explanation for the delay.

3. Learned counsel for the appellant-State had appeared and argued the matter before the writ court, so did the counsel for Committee of Management, meaning thereby, both the appellants were represented before the writ court, therefore, it is not a case where they did not know about the judgment. Now, we proceed to consider the explanation offered by the appellant-State in its appeal for filing it belatedly. But before doing so, we may mention that the limitation for filing special appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is thirty days vide Chapter IX Rule 10 of the Rules, 1952 read with Article 117 of the Schedule appended to the Limitation Act, 1963.

4. When we peruse the affidavit of the State, it is said therein that judgment dated 21.07.2023 was corrected on 06.02.2024. We have perused the order dated 06.02.2024 correcting the aforesaid judgment. We find that the corrections were merely in respect of typographical errors pertaining to certain dates. Moreover, it is not the case of the appellant-State that they had moved the application for correction. Such correction application had been filed by the respondent-petitioners. Therefore, this by itself may not be a sufficient explanation for the delay. Nevertheless, we proceed to consider other facts stated in the said affidavit. According to it, copy of the said orders which are impugned herein was not sent to D.I.O.S., however, there is no disclosure as to who was required to bring it to the knowledge of the D.I.O.S. After all the D.I.O.S. was represented before the High Court when the writ was decided. Learned Standing Counsel who had argued the matter or one who was present in Court when the judgment was pronounced, as the case may, be must have noted the disposal of the writ petition on the file. It is not the case of the appellant that no such information was received from the office of Chief Standing Counsel, categorically so. Even if it was so, that is a matter to be seen by the State and that by itself will not explain the delay. According to the appellants, the D.I.O.S. came to know about the said judgment only on 12.08.2024 after filing of the contempt petition and issuance of notice therein. Even if this fact is taken at its face value though we do not accept it as such, we find that even from such date, the appeal is considerably delayed as it was filed only on 21.08.2025 that is a good more than one year from the alleged date of knowledge.

5. In fact, we have been informed that on 19.07.2024 a contempt petition was filed for non-compliance of the judgment referred hereinabove wherein after issuance of notice, charges were framed on 09.08.2025 and only then the State authorities woke up and filed this appeal on 21.08.2025. Till then, they were sitting pretty over the matter neither complying it nor challenging it. This is how negligent and apathetic they have been. There is abject absence of promptness on the part of the State in challenging the impugned judgments. The affidavit goes on to state that on 01.08.2025, legal opinion had been sought from the Chief Standing Counsel which was provided on 12.08.2025 and thereafter, permission was granted by the State for filing the appeal on 13.08.2025. On 14.08.2025, the appeal was allotted to a Standing Counsel and then it was filed on 21.08.2025. A vague assertion has been made in para 10 that after obtaining copy of the order under challenge, it was realized that since the order under appeal had been passed without considering the case of the appellant, therefore, for further action in the matter and for filing special appeal against the order

under appeal, communication was done with the concerned officials. Assuming that it was so, all this happened after 14.08.2025. No other details have been given as to what communication was made and for what purpose. The affidavit goes on to state that after the aforesaid exercise, paperbook was handed over to counsel for the appellant in the first week of August, 2025. The appeal was thereafter prepared and filed on 21.08.2025.

6. On a bare reading of the affidavit in support of the application for condonation of delay, what comes out is that not only the delay is inordinate whatever explanation has been offered is not at all satisfactory.

7. We have gone through the recent decision of Hon'ble the Supreme Court dated 12.09.2025 rendered in Civil Appeal No.11794 of 2025

'Shivamma (Dead) By LRS vs. Karnataka Housing Board & Ors' wherein most of the decisions relied upon by learned counsel for the appellant as mentioned in para 14 of the affidavit aforesaid have been considered and the law with regard to condonation of delay and ancillary issues have been elucidated by Hon'ble the Supreme Court. The period of limitation for filing the appeal being thirty days, there is hardly any explanation for the said period in the affidavit in support of the application. At least, it is not satisfactory. As regards the period after expiry of limitation also, hardly any acceptable explanation has been offered. Hon'ble the Supreme Court has held in the case of Shivamma (Dead) (supra) that the expression “sufficient cause” is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control. Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim interest reipublicae ut sit finis litium and destabilise the certainty that limitation law seeks to secure. The expression “sufficient cause” must be construed in a manner that advances substantial justice while preserving the discipline of limitation. The courts are not to be swayed by sympathy or technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, courts have leaned towards condonation. Where negligence, want of good faith, or a casual approach is discernible, condonation has been refused. We are of the opinion that these latter observations of the Hon'ble Supreme Court apply on all its fours to the facts of this case. The appellants have not acted with reasonable diligence nor is the explanation offered by them plausible and consistent with ordinary human conduct. There is negligence, want of good faith and casual approach on their part for the reasons already noticed hereinabove. Preference of such appeal with inordinate delay certainly prejudices the rights of the opposite parties under the judgment impugned herein. Therefore, this is also relevant factor to be taken into consideration in view of the judgment in the case of

Shivamma (Dead) (supra).

8. Hon'ble the Supreme Court has further observed that the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether “sufficient cause” has been demonstrated for not filing the

appeal or proceeding within the prescribed period of limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay. Test of “sufficient cause” cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain. Yet another practical reason has been given by Hon'ble the Supreme Court as to why merits must not be considered at the stage of delay condonation that is it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. Therefore, we cannot consider the merits of the matter at this stage.

9. Hon'ble the Supreme Court has also considered as to whether there was any room for largesse for State lethargy and leisure under Section 5 of the Limitation Act. After considering various earlier decisions on the subject, ultimately, it opined that prior to the decision of 'Postmaster General v. Living Media India Ltd.' reported in (2012) 3 SCC 563, 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 W.B. vs. Administrator, Howrah Municipality' reported in (1972) 1 SCC 366 and 'Lanka Venkateswarlu vs. State of A.P.' reported in (2011) SCC Online SC 403 which held that, irrespective of whether the litigant is a Government entity or a private individual, the provisions of limitation would apply uniformly, and any leeway shown by the courts would also remain the same. The law as it presently stands post the decision of Postmaster General (supra) as unambiguous and clear. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bonafide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant. Hon'ble the Supreme Court has further observed that on a combined reading of 'State of Rajasthan & Anr. vs. Bal Kishan Mathur (Dead) through Legal Representative' reported in (2014) 1 SCC 592 and 'Sheo Raj Singh vs. Union of India' reported in (2023) 10 SCC 531 it is equally manifest that the ratio of Postmaster General (supra) is, in essence, twofold. First, that State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. The State must be judged by the same standards as any private litigant. To do otherwise would compromise the sanctity of limitation. Secondly, that the habitual reliance of Government departments on bureaucratic red tape, procedural bottlenecks, or administrative inefficiencies as grounds for seeking condonation of delay cannot always, invariably accepted as a “sufficient cause” for the purpose of Section 5 of the Limitation Act. If such reasons were to be accepted as a matter of course, the very discipline sought to be introduced by the law of limitation would be diluted, resulting in endless uncertainty

in litigation. We have perused other parts of the said judgment including para 214 and onwards.

10. Considering the facts of this case, we are of the opinion, as already expressed, firstly that the delay is inordinate, secondly, the explanation offered in this regard which is hardly an explanation is certainly not an acceptable one and is not satisfactory as there is no sufficient cause shown by the appellants for entertaining the appeal which has been filed with such delay.

11. We, accordingly, reject the application for condonation of delay. Consequently, the appeal bearing Special Appeal Defective No.345 of 2025 also stands dismissed.

12. We are now considering the affidavit in support of the application for condonation of delay in connected Special Appeal Defective No.418 of 2024.

13. This appeal, as already stated, has been filed with a delay of 348 days. Para 2 of the said affidavit mentions that judgment dated 06.02.2024 was communicated to the Manager of the Institution vide covering letter dated 17.05.2024 copy of which is annexed, however, the appellant has not disclosed as to whether its counsel in the said writ proceedings who was heard had communicated disposal of the writ petition to the appellants or not. It is silent on this issue. Thus, there is no explanation much less a satisfactory one for the period of limitation prescribed for filing an appeal i.e. 30 days. Now, we proceed to consider as to what is the explanation, if any, for the period after expiry of the limitation prescribed for filing an appeal.

14. It is said that after receiving the letter dated 17.05.2024, the appellants arranged the paperbook and sent a letter dated 05.07.2024 to D.I.O.S. seeking his instructions. Simultaneously, the deponent asked her counsel to get the certified copy of the judgment which was received on 10.07.2024. Now, here again after receipt of letter dated 17.05.2024, instead of challenging the judgment, the appellants waited for almost one and a half months to write a letter to the D.I.O.S. and to seek certified copy of the judgment through her counsel. The said certified copy of the judgment, as claimed was received on 10.07.2024. Thereafter again, the deponent approached the office of D.I.O.S. and inquired about compliance of judgment and order dated 21.07.2023 passed by the High Court. This itself shows that the appellants did not have the intent of challenging the judgment which has subsequently been impugned. It is said that D.I.O.S. expressed some views on merits. Thereafter, the appellants met her counsel on 22.07.2024 and asked him to prepare the appeal. Thereafter, some time was consumed in collecting documents and getting the appeal prepared by 03.08.2024 when it was filed. Here again, the explanation offered in the affidavit is quite casual. It only demonstrates the apathetic attitude of the appellants. No promptness is evinced from a reading of the said affidavit. The appellants acted with leisure. Keeping in mind the judgment of Hon'ble the Supreme Court in Shivamma (Dead) (supra) which we have already referred extensively in the earlier part of the judgment, not only the delay is inordinate but it is also not satisfactorily explained. Appellants have failed to put forth

and demonstrate sufficient cause for condonation of delay. We are not persuaded to condone the delay in this appeal also.

15. Accordingly, the application for condondation of delay is rejected. Consequently, the appeal bearing Special Appeal Defective No.418 of 2024 is also dismissed.