

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
GWALIOR (M.P.)
(Presided by : Lalit Kishore)**

MJC No. 226/2026
Filing No. MJC/1490/2026
CNR No. MP0701-004966-2026
Filing Dt 28-02-2026
Registration Dt. : 13-03-2026

Surendra Singh Pal S/o Shri Gopal
Singh Pal, Age-40 years, R/o Baghel
Mohalla, Ward No. 60, Hurawali,
Morar, Gwalior (M.P.) Firm New
Sheetla Dairy, Kumharpura, Thatipur,
Gwalior Prop-Surendra Singh Pal
.....**Appellant**

Versus

Madhya Pradesh through Food Safety
Officer Shri Satish Kumar Sharma,
Food and Drug Administration,
Gwalior (M.P.) **Respondent**

15-07-2026

Ld. counsel Shri Chandrabhan Singh appeared for appellant.

Ld. GP Shri Vijay Kumar Sharma appeared for Non-applicant/State.

Matter is fixed for argument on Interim Application U/s 5 of the Limitation Act.

Arguments heard on the above said application and perused the record.

Appellant has filed an appeal against the order dt. 31-12-2024 passed by ADM & Adjudicating Officer Gwalior in case no. Q/Food Safety/39/2024 thereby appellant has been convicted U/s 51 of FSSA-2006 and penalty of Rs. 2,00,000/- (two lacs) under Section 51 of FSSA 2006 has been imposed on the appellant. Along with the appeal he has filed the above mentioned application on the ground that he has filed the appeal against the impugned order dated 31-12-2024. It is submitted that the applicant/appellant had duly engaged his previous counsel, Shri Shailendra Mishra, to prefer the appeal within the limitation period. However, due to the sudden and sad demise of the said learned advocate, the case file could not be processed, and the limitation period expired, when appellant received recovery notice on 31-12-2025, then, he

came to know about the unfortunate event subsequently, recovered the file, and immediately engaged new counsel to file the present appeal. The delay caused in filling the appeal was bona-fide and due to the above said reason, if delay would not be condoned he will not get the justice. Applicant/appellant Surendra Singh has also filed an affidavit in support of his application, which is not countered by the State.

It is also worth mentioning here that Ld. counsel Shri Chandrabhan has also filed an affidavit of Smt. Rekha Mishra wife of late Shri Shailendra Kumar Mishra and a copy of condolence message of High Court Bar Association and stated that her husband late Shri Shailendra Kumar Mishra, advocate was died on 25-02-2025 and applicant/appellant's appeal could not filed by him, thereafter case file was given to appellant on 24-01-2026.

On the contrary, Ld. Learned counsel for the Non-applicant/Respondent State formally opposes the application, stating that the appeal is barred by more than one year and the reason assigned by the applicant/appellant is not proper and while the explanation regarding delay should be on day-to-day basis. Hence, his application is liable to be rejected.

I have gone through the record, the appellant had filed the appeal on 28-02-2026 against the impugned order dt. 31-12-2024 i.e. with a delay of more than one year, while the applicant/appellant has to file the appeal within 30 days from the date of order. In this regard Ld. counsel for the appellant submitted that applicant/appellant could not filed appeal within prescribed time due to sad and sudden demise of Ld. counsel Shri Shailendra Kumar Mishra, who had been engaged by the appellant, thereafter appellant recovered the file, and immediately engaged new counsel to file the present appeal and he has filed affidavits in support of his contention, which is not countered by the State.

In this regard, order passed by the Hon'ble High Court of M.P. in **Raman Yadav Vs. The State of M.P., CRR No. 1812/2024 Order dated 17-09-2024** may also be perused, in which Hon'ble High Court has held that the "*.....the Rules of Limitations are not meant to destroy the substantive right of the parties. The right of filing an appeal in terms of provisions of Act of 2006 is statutory right of the present petitioner.....*".

In view of the aforesaid law laid down by the Hon'ble High Court and in the facts and circumstances of

the case and the reason assigned by the appellant seems proper and considering the period of delay is condoned and the above said application U/s 5 Limitation Act is **allowed**.

Case be registered in Regular Civil Appeal and parties be directed that they shall appear before this Court on **20-08-2026** for final argument on appeal.

After registering Regular Civil Appeal, attached court fee Union Bank of India demand draft No. 036041 Rs. 2000/- dated 26-02-2026 be deposited as per law.

Record of this case be sent to Record Room within time.

Sd/-

Lalit Kishore

Principal District Judge, Gwalior