

Misc. Appeal No. 29 of 2025
CNR NO. WBHW01 001000 2025
Present: Abhijit Som,
District Judge, Howrah.
J.O. Code – WB01127

Order No. 04 dated 22.09.2025.

The application under Section 5 of the Limitation Act is taken up for hearing.

Heard learned Advocate on behalf of both sides.

Learned Advocate on behalf of the appellant submits that the appellant being an aged persons could not file the instant appeal in due time due to his illness. It is stated that the ground for delay is genuine and not intentional one.

On the other hand, learned Advocate on behalf of the respondents submits that the delay may be condoned subject to payment of heavy cost.

It appears from the office note that the appeal is filed after a delay of 180 days. In the decision **Esha Bhattacharjee V. Managing Committee of Raghunathpur Nafar Academy and Ors. (2013) 12 SCC 649.** the Hon'ble Supreme Court observed that *there is distinction between inordinate delay and delay of short duration of few days, for to the former doctrine of prejudice is attracted whereas to the later it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for liberal delineation.* In the instant case, the delay of 180 days may not be considered as inordinate delay and therefore, a liberal approach may be taken in condoning delay.

In another decision, **Collector Land Acquisition v. Mst. Katiji & Ors. AIR 1987 SC 1353,** the Hon'ble Apex Court observed that *the legislature has conferred the power to condone delay by enacting Sec. 5 of the Indian Limitation Act of 1963 in order to enable Courts to do substantial justice to parties by disposing of the matters on 'merits'. The expression 'sufficient cause' employed by the legislature is adequately elastic to enable Courts to apply law in a meaningful manner which serves the ends of justice that being the life - purpose of existence of the institution of Courts. It is also observed by the Hon'ble Apex Court that "every day's delay must be explained" does not mean that a pedantic approach should be made. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred. Refusing to condone*

delay can result in a meritorious matter being thrown out at the very threshold and cause of justice defeated.

The Hon'ble High Court in **the State of West Bengal vs. Smt. Ila Giri. 2014 (3) CLJ (Cal) 271** is of the opinion that *any meritorious appeal would not be dismissed by any Court of law merely because of insufficiency of the explanation for delay.*

In view of the above, this Court finds that the delay in filing the appeal may be condoned, subject to payment of cost to the respondents.

Hence, it is

O r d e r e d

that the application under Section 5 of the Limitation Act is allowed subject to payment of cost of Rs. 2,000/- to the respondents.

The appeal is admitted.

Fix 19.11.2025 for payment of cost.

Dictated & corrected by me.

D. J.

District Judge, Howrah.