



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3565]

**TUESDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

WRIT APPEAL NO: 921/2025

Writ Appeal under clause 15 of the Letters Patent to set aside the order dated 20.09.2024 in WP No. 19305 of 2006

Between:

1.THE DIRECTOR OF COLLEGIATE EDUCATION, ANDHRA PRADESH, HYDERABAD NOW FUNCTIONING AT GARUDADRI KK TOWERS LAKSHMINARASIMHA COLONY MANGALAGIRI, GUNTUR DISTRICT, ANDHRA PRADESH.

...APPELLANT

AND

1.SRI V A S NAIDU, S/O LATE PARANDAMAIAH A.M.A.L. COLLEGE, ANAKAPALLE POST, VISAKHAPATNAM DISTRICT.

2.A M A L COLLEGE, ANAKAPALLE POST, VISAKHAPATNAM DISTRICT, ANDHRA PRADESH 531001 REPRESENTED BY ITS CORRESPONDENT, RESPONDENT NO.2 WAS IMPEADED AS PER C.O.DT.02.02.2026 VIDE I.A.NO.01 OF 2026 IN W.A.NO.921 OF 2025.

...RESPONDENT(S):

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 284 days in filing the writ appeal against the orders dated 13-09-2024 in WP No. 19305 of 2006

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to SUSPEND the operation of the order dated 20.09.2024 in W.P.No.19305 of 2006

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the appellants/petitioners to impaled proposed respondent A.M.A.L. College, Anakapalle as respondent No.2 in Writ Appeal No. 921 of 2025 and to pass

Counsel for the Appellant:

- 1.GP FOR HIGHER EDUCATION

Counsel for the Respondent(S):

- 1.K SARVA BHOUMA RAO
- 2.CHILAMKURTHI SATYA DEV NAIDU

The Court made the following Judgment: *(Per Hon'ble Sri Justice Subhendu Samanta)*

The instant Writ Appeal is preferred against the order dated 13.09.2024 passed in W.P.No.19305 of 2006. I.A.No.1 of 2025 is filed under Section 5 of the Limitation Act to condone the delay of 284 days in filing this writ appeal.

2. Heard the learned counsel for the parties.

3. It appears from the accompanying affidavit filed by the appellant in I.A.No.1 of 2025 that the reason for delay was demonstrated in paragraph 4 of the said affidavit, which read as follows:

"4. It is respectfully submitted that the order in W.P.No.19305 of 2006 was passed on 13.09.2024 and the same was received by the Department on 13.11.2024. After receipt of the order, the Government Pleader for Higher Education has been sought opinion on the orders dated: 13.09.2024. In reply, vide letter dated: 09.04.2025 rendered his opinion to file Writ Appeal against the orders of the Learned Single Judge dated: 13.09.2024 in W.P.No.19305 of 2006. Further summer vacation commenced from 10.05.2025 to 15.06.2025. Hence the delay occurred. However, the same could not be filed for want of delay petition. Accordingly delay petition is prepared and submitted to the Hon'ble Court. Hence, delay of 284 days had occurred in filing the appeal. I submit that the delay that has occurred in filing the above appeal is only due to administrative reasons and not intentional or willful."

4. It is surprising to note that though the order under challenge was passed on 13.09.2024 in the presence of learned Government Pleader for Higher Education, the appellant has stated in the application that the department has received the order on 13.11.2024.

5. Due to bureaucratic lethargy, i.e., moving file to one department to another for getting instructions and opinion for filing the appeal, 284 days have already been elapsed.

6. The Hon'ble Supreme Court in the case of ***Shivamma (Dead) by LRs vs. Karnataka Housing Board and Others***¹ has specifically deprecated the practice of different Governments and it's entities for causing delay of not filing appeal in due time. The learned Apex Court has also been clarified Section 5 of Limitation Act in its true perspective. It has been directed that only the delay in filing appeal after the period of limitation is not only required to be explained but it has to be explained why the appeal was not filed within the statutory period of limitation. The observation of Hon'ble Apex Court in paragraph 154 to 158 of the Shivamma's case is set out as follows:

"110. Section 5 of the Limitation Act, also does not speak that the discretion conferred to the courts is limited only for determining if sufficient cause exists or not, and where it has in its discretion decided that such "sufficient cause" existed, it has to then mandatorily condone the delay. As succinctly put in Rewa Coal Fields (supra), even "if sufficient cause is shown then the court has to enquire whether in its discretion it should condone the delay".

111. The discretion that the courts have been conferred under Section 5 of the Limitation Act, is two-fold, for determining if "sufficient cause" existed and where the former is answered in the affirmative, then whether the case is a fit one for it to condone the delay, to admit the appeal or application as the case may be. Which is why, the legislature consciously used the word "extension" rather than "exclusion" in marginal note to Section 5 of the Limitation Act.

112. To say, that the purpose for demonstrating "sufficient cause" is to exclude only that extent of period which would once again

¹ 2025 LawSuit (SC) 1254

put the litigant back into the last day on which, he could have filed the appeal or application, would, in our opinion, gravely misconstrue the entire mechanism of Section 5 of the Limitation Act. Thus, the expression “within such period” for this reason also cannot be possibly construed to mean the period from the last day of expiry of the limitation, till the actual date of filing of appeal or the application, as understood by Rewa Coal Fields (supra). The phrase “extension” used in Section 5 of the Limitation Act is not a misnomer.

113. It is for this reason that the decisions of this Court in Ajit Singh Thakur (supra) and Ramkumar Choudhary (supra) held that “sufficient cause” for the delay in filing of an appeal or application, as the case may be, has to be established by some event or circumstance that had arisen before the limitation expired and that the party seeking condonation has to explain the delay the entire continuum commencing from the point at which the limitation period first began to run, until the eventual filing of the appeal or application, as the case may be.

114. We may, with a view to obviate any confusion, clarify that the observations made by this Court in Ramkumar Choudhary (supra), particularly that “what events occurred after the 91st day till the last is of no consequence” should not be construed devoid of its context. When this Court in Ramkumar Choudhary (supra) said that events after the expiry of limitation till the date of actual filing would be of no consequence, the same was made in view of the well-established rule that “sufficient cause must be establish that because of some event or circumstance arising before the limitation expired”. The aforesaid observations of “what events occurred after the 91st day till the last is of no consequence” in Ramkumar Choudhary (supra) were made in the peculiar facts of that case, where the appellant had failed to assign any “sufficient cause” occasioning during the period of limitation, which rendered the events occurring after the expiry of limitation as irrelevant.

115. However, as is manifest from the entire discussion above, for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, the delay has to be explained by establishing the existence of “sufficient cause” for the entirety of the period from when the limitation began till the actual date of filing. In other words, if the period of limitation is 90-days, and the appeal is filed belatedly on the 100th day, then explanation has to be given for the entire 100-days.

7. It further appears to this Court that the Hon’ble Apex Court on earlier occasion in **Collector, Land Acquisition, Anantanag and Another vs. MST**

Katiji and others² has held that in deciding the application under Section 5 of the Limitation Act, the Court shall take lenient view in disposing the application whether there is real grounds of controversy in appeal; but later the Hon'ble Supreme Court has changed its view altogether after passing the land mark judgment of **Postmaster General and Others vs. Living Media India Limited and another**³. It is the vision of the Hon'ble Supreme Court that the delay must be explained properly either by Government entities or by private persons in filing an appeal. In paragraph 27 to 30 of the **Postmaster General's** case, the Hon'ble Apex Court observes as follows:

- "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*

² AIR 1987 SC 1353

³ (2012) 3 SCC 563

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.

30. *Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."*

8. The Hon'ble Supreme Court in **Shivamma's case** also clarified the stand of the Apex Court, after **Postmaster General's case**, which is as follows:

212. The law as it presently stands, post the decision of Postmaster General (supra), is unambiguous and clear. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bona fide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant.

213. From a combined reading of Bal Kishan Mathur (supra) and Sheo Raj Singh (supra) 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 not only compromise the sanctity of limitation. The earlier view, insofar as it favoured a liberal approach towards the State or any of its instrumentality is no more the correct position of law. 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.

214. What has been conveyed in so many words, by the decision of Postmaster General (supra) is that while excuses premised solely on bureaucratic lethargy cannot, by themselves, constitute sufficient cause, there may nonetheless be circumstances where the explanation offered, though involving bureaucratic procedures, reflects a genuine and bona fide cause for the delay. In such instances, the true test is whether the explanation demonstrates that the State acted with reasonable diligence and whether the delay occurred despite efforts to act within time. Where such bona fides are established, the Court retains the discretion to condone the delay.

215. In other words, Postmaster General (supra) does not shut the door on condonation of delay by the State in all cases involving bureaucratic processes. The real distinction lies between a case where delay is the result of gross negligence, inaction, or casual indifference on the part of the State, and a case where delay has occurred despite sincere efforts, owing to the inherent complexities of governmental decision-making. While the former category must necessarily be rejected to uphold the discipline of limitation, the latter can still attract judicial indulgence where public interest is at stake and the cause is shown to be reasonable.

216. In this regard, the vital test that has to be employed, wherever "sufficient cause" is sought to be demonstrated on the ground of bureaucratic inefficiencies is to distinguish between whether the same is an "explanation" or an "excuse". Although the two may appear to be one and the same, yet there exists a fine but pertinent distinction between an "excuse" and an "explanation".

217. As illustrated in Sheo Raj Singh (supra) an "excuse" is often offered by a person to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an "excuse" would imply that the explanation proffered is believed not to be true. An "explanation" on the other hand would demonstrate genuineness in actions and reasons assigned, and would otherwise be devoid of any gross negligence, deliberate inaction or lack of bona fides, or indifference or casualness in conduct. Thus said, there is no formula that caters to all situations and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts.

218. However, equally important to note is that wherever, any explanation is sought to be given on account of bureaucratic lethargy and inherent complexities of governmental decision-making, the same more often than not would invariably always is an "excuse", as experience has shown us, depicted from a long line of decisions of this Court. It is at this stage, where the decision of Postmaster

General (supra) assumes significance. It seeks to convey the messages, that court should not be agnostic, to how the State or its instrumentalities, often tend to take the recourse of condonation of delay in a casual manner.

219. Which is why, as per the ratio of Postmaster General (supra) and a plethora of other subsequent decision, the ordinary approach of the courts, in cases where delay is sought to be condoned by offering the explanation of bureaucratic lethargy or red-tapism, must be one of circumspection and reluctance. The courts ought to loathe in accepting such explanations as “sufficient cause”. They should apply their minds carefully, be slow in condoning delays on such reasons, and exceptional instances, where the explanation is found to be genuine, reflective of reasonable vigilance and promptitude in conduct, and free from gross negligence, deliberate inaction, lack of bona fides, or casual indifference, should such an explanation be accepted.”

9. In recent decision of the Hon'ble Supreme Court in ***State of Odisha and others vs. Managing Committee of Namatara Girls High School***⁴ has also clarified its earlier decision in ***Sheo Raj Singh (Deceased) through LRs. & Others v. Union of India & Another***⁵ and dismissed the application filed under Section 5 of the Limitation Act for condonation of delay in filing SLP with 123 days delay and 96 days delay in re-filing.

10. Considering the entire facts and circumstances of the case and following the judgments of the Hon'ble Supreme Court in ***Shivamma and Postmaster General (supra)***, it appears that the reasons for causing delay by the appellant is not sufficient to entertain. Accordingly, the application under Section 5 of the Limitation Act being I.A.No.1 of 2025 is considered and rejected.

⁴ 2026 SCC Online SC 191

⁵ (2023) 10 SCC 531

Consequent thereto, the appeal being W.A.No.921 of 2025 is hereby also dismissed as bared by limitation. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE SUBHENDU SAMANTA

Date: 17.03.2026

SPP

HON'BLE SRI JUSTICE BATTU DEVANAND
AND
HON'BLE SRI JUSTICE SUBHENDU SAMANTA

W.A.No.921 of 2025

(per Hon'ble Sri Justice Subhendu Samanta)

Dated 17.03.2026

SPP