



2026:CGHC:8215



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ARBA No. 64 of 2025

Chief Engineer Public Works Department, National Highway Zone, NH Campus Pension Bada, Raipur (C.G.), Through Executive Engineer, Public Works Department, National Highway Division, Bilaspur (C.G.)

... Appellant

versus

1 - Abhayram S/o Late Shri Loknath Aged About 64 Years R/o Masaniyakala, Tehsil Sakti, District Janjgir - Champa, Chhattisgarh

2 - Sub Divisional Officer (Revenue) Cum- Competent Authority Under Land Acquisition, Champa, District Janjgir-Champa (C.G.)

... Respondent(s)

(The cause title is as per the Memo of Appeal)

For Appellant(s) : Mr. R.K. Mishra, DSGI

For Respondent No. 1 : Mr. P.K. Patel, Advocate

For Respondent/ State : Mr. Santosh Soni, Govt. Advocate

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

16/02/2026

1. Heard on I.A. No. 2 of 2025, application for condonation of delay of 218 days in filing this arbitration appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996.



2. The present appeal arises out of land acquisition proceedings initiated under the National Highways Act, 1956 for widening of National Highway No. 200 (New 49), wherein land of the private respondent was acquired and an award dated 16.04.2018 was passed by the Competent Authority for Land Acquisition (CALA) determining compensation. Being dissatisfied, the private respondent preferred an application under Section 3G(5) of the Act seeking enhancement of compensation. The learned Arbitrator, instead of re-determining the compensation, remanded the matter to the CALA for passing a revised/modified award vide arbitral award dated 21.02.2023. The appellant challenged the said award under Section 34 of the Arbitration and Conciliation Act, 1996; however, the learned District Court, vide order dated 27.09.2024, dismissed the application while observing that the Arbitrator had acted beyond the scope of Section 3G(5). Aggrieved thereby, the appellant has preferred the present appeal.
3. Learned DSGI appearing for the appellant submits that the present appeal has been filed along with an application under Section 5 of the Limitation Act seeking condonation of delay of 218 days in filing the appeal. He further submits that the appeal was filed on 29.03.2025, beyond the prescribed period of limitation. It is further submitted that after the impugned order dated 27.09.2024 was passed and the certified copy was obtained, the appellant sought legal opinion from its counsel, who



advised filing an appeal under Section 37 of the Arbitration and Conciliation Act, 1996. The matter was thereafter placed before the superior authority for approval and, upon approval, entrusted to counsel for drafting. During this period, the then Executive Engineer (officer-in-charge) superannuated and the post remained vacant for some time. Subsequently, after the new officer assumed charge and the winter vacation intervened, the draft was approved and the appeal was filed. He also submits that the delay occurred due to these administrative and procedural circumstances, and not deliberately or with malafide intention. It is therefore prayed that the delay may be condoned considering the plausible explanation offered by the appellant..

4. *Per contra*, learned counsel appearing for respondents submit that the issue involved in the present arbitration appeal, regarding delay, has already been considered and decided by this Court vide judgment dated 02.02.2026 passed in **ARBA No.62 of 2025 (Sumitra Bai vs. Executive Engineer, PWD & Ors.)** placing reliance upon the decisions rendered by the Supreme Court in the matter of **Government of Maharashtra (Water Resources Department) vs. Borse Brothers Engineers and Contractors Pvt. Ltd. reported in (2021) 6 SCC 460**. Learned counsel further submits that the delay of 218 days has not been satisfactorily explained and the grounds urged are vague and general in nature, which do not constitute sufficient cause within the meaning of Section 5 of the Limitation Act. It is contended that the appellant



has been grossly negligent in prosecuting the matter and the application has been filed only to overcome the statutory bar of limitation.

5. I have heard learned counsel for the parties and perused the material available on record.
6. In the case at hand, the appellant has failed to demonstrate any sufficient cause for not filing the appeal within the stipulated period prescribed under the provisions of the Arbitration and Conciliation Act, 1996, except citing certain administrative and procedural circumstances, which themselves do not constitute a satisfactory explanation for condonation of delay. In fact, there was a long delay of 218 days beyond the prescribed period. The explanation feel woefully short of making out any sufficient cause. It is also noteworthy to mention here that merely because sufficient cause has been made out in the facts of a given case, there is no vested right in the appellant to have delay condoned.
7. The Supreme Court in the matter of ***Borse Brothers Engineers and Contractors Pvt. Ltd. (supra)*** held thus at para 62, 63 & 68 :

“62. Also, it must be remembered that merely because sufficient cause has been made out in the facts of a given case, there is no right in the appellant to have delay condoned. This was felicitously put in ***Ramlal v. Rewa Coalfields Ltd.*** as follows: (SCR p. 771: AIR p. 365, para 12)--



"12. It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the Court is dealing with applications made under Section 14 of the Limitation Act. In dealing with such applications the Court is called upon to consider the effect of the



combined provisions of Sections 5 and 14. Therefore, in our opinion, considerations which have been expressly made material and relevant by the provisions of Section 14 cannot to the same extent and in the same manner be invoked in dealing with applications which fall to be decided only under Section 5 without reference to Section 14."

63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.

68. This explanation falls woefully short of making out any sufficient cause. This appeal is therefore allowed and the condonation of delay is set aside on this score also."



8. In the absence of any sufficient cause and explanations, the application under Section 5 of the Limitation Act cannot be entertained as a matter of routine, particularly, when the delay in filing of the instant appeal is for a period of 218 days.
9. Applying the well settled principles of law laid down by the Apex Court in the matter of ***Borse Brothers Engineers and Contractors Pvt. Ltd. (supra)*** and further considering the fact that the identical issue has already been considered and decided by this Court in ***Sumitra Bai (supra)***; and for the reasons mentioned in the application, I.A. No.2, for condonation of delay of 218 days in filing the appeal is hereby **rejected**.
10. Consequently, the instant arbitration appeal is also **dismissed** on this score alone.

Sd/-

(Bibhu Datta Guru)
JUDGE