

GAHC010125042025



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/1899/2025

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECY., FINANCE DEPTT.,
GOVT. OF ASSAM, DISPUR, GUWAHATI 781006

2: THE LEGAL REMEMBRANCER CUM COMMISSIONER AND SECY.

JUDICIAL DEPTT.
GOVT. OF ASSAM
DISPUR
GUWAHATI 781006

3: THE DIST. AND SESSION'S JUDGE

CHIRANG
KAJALGAON
DIST. CHIRANG
BOROLAND TRIBAL COUNCIL
ASSAM.

4: THE REGISTRAR GENERAL
GAUHATI HIGH COURT
GUWAHATI 78100

VERSUS

SRI SURESH RAJBHAR
S/O JAGANNATH RAJBHOR, R/O RAILWAY QUARTER, NO. 234/D, NORTH
EAST WEST COLONY, NEW BONGAIGAON, P.S. BONGAIGAON, PIN 783381,
DIST. BONGAIGAON, ASSAM.

Advocate for the Petitioner : MR D K SARMAH, ADDL. SR. GA, ASSAM

Advocate for the Respondent : MR. SURAJIT DAS, MR SARFRAZ NAWAZ

For the applicant :- Mr. D.K.Sarma, learned counsel,

For the opposite parties :- Mr. S. Das, learned counsel

BEFORE

**HONOURABLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

21-01-2026

(Arun Dev Choudhury,J)

1. Heard Mr. D.K.Sarma, learned counsel for the applicant. Also heard Mr. S. Das, learned counsel for the sole opposite party/respondent.
2. The present Interlocutory Application under Section 5 of the Limitation Act, 1963, is filed seeking condonation of the delay of 612 days in filing the connected writ appeal against the judgment and order dated 24.08.2023 passed by the learned Single Judge in WP(C) No. 308/2022.
3. The grounds of delay are explained in paragraph Nos. 1(i) to 1(v) of the instant application. Canvassing for the State/applicant, Mr. D.K.Sarma, learned counsel, contends that it is evident from the paragraph Nos. 1(i) to 1(v) that the delay in filing the connected appeal was result of necessary and unavoidable official procedure. It is further contended by Mr. Sarma, learned counsel, that there was no deliberate and/or intentional lapse on the part of the officers, rather, the State was

prevented by sufficient cause in filing the appeal within the prescribed period of limitation. Mr. Sarma, learned counsel also contends that a liberal approach may be adopted while condoning the delay, and this Court may not take too strict and pedantic stand which may result in injustice. In support of his contentions, Mr. Sarma, learned counsel for the applicant, places reliance on the decision of the Hon'ble Apex Court in **Collector of Land Acquisition, Anantnag & Anr -Vs- Mst. Katiji & Ors** reported in [(1987) 2 SCC 107].

4. On the other hand, the learned counsel for the opposite party/respondent relying on the determination made by the Hon'ble Apex Court in **the Chief Post Master General & Ors -Vs- Living Media India Ltd and Anr.**, reported in [AIR 2012 SC 1506] contends that there is gross negligence on the part of the State authorities in approaching this Court within time and the causes shown at paragraph Nos. 1(i) to 1(v) cannot be termed as "sufficient cause" and therefore, such delay may not be condoned, inasmuch as, by now it is well settled that bureaucratic delay cannot be termed as "sufficient cause."

5. We have given anxious consideration to the submissions advanced by the learned counsel for the parties.

6. It is true that a certain amount of latitude, considering impersonal machinery and inherited bureaucratic methodology, is not impermissible; however, sufficient cause should be considered with pragmatism in a justice-oriented approach. It is by now well settled that Government may not be treated as any other private litigant, so far as it relates to condonation of delay, for the reason that the Government's decision to present and prosecute appeals is not an individual but an institutional

decision, which necessarily goes by the proverb "red-tape", however, there are limits to the same.

7. In the case in hand, the approach of the State and its officers, in our considered opinion is nothing but stereotype explanation. The explanation given at paragraph Nos. 1 (i) to 1(v) do not disclose any unavoidable circumstance and/or genuine difficulties, rather the person/persons of concerned Department have not evinced diligence in prosecuting the matter.

8. The applicant admittedly received a copy of the aforementioned judgment and order in due course. The Department endorsed the file to the Judicial Department. Subsequently, the Judicial Department had processed the concerned file and endorsed the same to the Finance Department. However, the Finance Department suggested the Judicial Department to take opinion of the learned Advocate General, Assam and as per his suggestion, handed over all the documents to the office of the Sr. Government Advocate, Assam. Subsequently, the applicant has consulted with the learned Sr. Govt. Advocate, Assam and filed the connected appeal on 29.05.2025.

9. In the backdrop of the explanation given, the argument on behalf of the State that the delay was due to unavoidable circumstances and for genuine difficulties does not find favour of this Court.

10. The facts detailed at paragraph Nos. 1(i) to 1(v), are nothing but a lack of diligence in prosecuting the matter and are lackadaisical in their approach. We also take note of the fact that the officers in the Department are well aware and/or conversant with the issues involved, including the prescribed period of limitation for

filing a writ appeal.

11. The State cannot be allowed to take advantage of the leeway granted to the Government while condoning delay, only for the reason of bureaucratic delays, more particularly, in a case like the present one, where plausible and acceptable explanation is absent, inasmuch as, delay cannot be condoned mechanically, merely because the government or a wing of government is a party before us. In this regard, this Court can gainfully press into service the recent decision of the Hon'le Apex Court in **Shivamma (DEAD) by LRS Vs. Karnataka Housing Board & Ors. (Civil Appeal No. 11794/2025)**, where the Hon'ble Apex Court concluded that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, especially when the State machinery is involved. The Courts, particularly Constitutional Courts, should not bypass procedure for State agencies that are lackadaisical in their approach.

12. For the reasons recorded hereinabove, we are of the opinion that the applicant has failed to show sufficient cause for condonation of delay of **612** days in preferring the connected appeal.

13. Accordingly, the present interlocutory application stands dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant