

GAHC010225062025



DB

2026:GAU-AS:5584-

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

Case No. : I.A.(Civil)/3405/2025

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF
ASSAM, DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI-
781006.

2: THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 781019.

3: INSPECTOR OF SCHOOL
NDC
NALBARI
DIST. NALBARI
ASSAM
PIN 781335

VERSUS

SAMUDRA HALOI AND 4 ORS
S/O LT. KONAK HALOI, ASST. TEACHER, RAJKADAMTALSANDHA HIGH
SCHOOL, NDC, NALBARI, P.O. SANDHA, DIST. NALBARI, ASSAM, PIN
781337 PRESENTLY R/O BIJOY NAGAR, BARSAR KUCHI, P.O. MILANPUR,
DIST. NALBARI, ASSAM, PIN 781337.

2: KISHOR SARMA

ASST. TEACHER
LAHKARPARA HIGH SCHOOL
NALBARI
P.O. LAHKARPARA
DIST. NALBARI
ASSAM

PIN 781348

3:JITENDRA NATH SARMA

ASSTT. TEACHER
P.B. DHIRDUTTA HIGH SCHOOL
P.O.
P.S. BARKHALA
DIST. NALBARI
ASSAM
PIN 78134

4:THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM

FINANCE DEPTT.
DISPUR
GUWAHATI 6

5:THE ACCOUNTANT GENERAL

OFFICE OF THE ACCOUNTANT GENERAL
ASSAM
BELTOLA
MAIDAMGAON
DISPUR
GUWAHATI

Advocate for the Petitioner : MR. N J KHATANAR,

Advocate for the Respondent : SC, FINANCE, MS P SARMA(R-3),MR. S K GOSWAMI (R-3),MR. R SHARMA (R-1,2),MR. S K GOSWAMI (R-1,2),SC, AG

For the applicants :- Mr. N.J. Khataniar, learned counsel,

For the opposite parties :- Mr. S.K. Goswami, learned counsel
Mr. C. Boruah, learned Standing counsel, AG

BEFORE

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

ORDER

23-04-2026

(Arun Dev Choudhury,J)

1. Heard Mr. N. J. Khataniar, learned counsel for the applicants. Also heard Mr. S. K. Goswami, learned counsel for the opposite party/respondent Nos. 1 to 3 and Mr. C. Boruah, learned Standing counsel, Accountant General, Assam for the opposite party/respondent No. 5.

2. The present Interlocutory Application is filed seeking condonation of the delay of 1102 days in filing the connected writ appeal against the judgment and order (oral) dated 10.05.2022 passed by the learned Single Judge in WP(C) No. 3920/2021.

3. The grounds of delay are explained in paragraph Nos. 4 to 6 of the instant application. Canvassing for the applicants, Mr. Khataniar, learned counsel, contends that it is evident from the paragraph Nos. 4 to 6 that the delay in filing the connected appeal was result of necessary and unavoidable official procedure. It is further contended by Mr. Khataniar, 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. Khataniar, 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.

4. In support of his contentions, Mr. Khataniar, learned counsel for the applicants, 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]**.

5. On the other hand, the learned counsel for the opposite parties/respondents 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. 4 to 6 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."

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

7. 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 appeal is not an individual but an institutional decision, which necessarily goes by the proverb "red-tape", however, there are limits to the same.

8. In the case in hand, the approach of the State and its officers, in our considered opinion is nothing but stereotype explanation. The explanations given at paragraph Nos. 4 to 6 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.

9. The applicants admittedly received a copy of the aforementioned judgment and order in due course. The Department endorsed the file to the Judicial Department for views. Subsequently, the Judicial Department suggested to take opinion of the learned Advocate General, Assam and the learned Advocate General, Assam gave his opinion on 15.05.2023. Though, it is stated that thereafter, a detailed report was sought on 08.06.2023 from the Director of Secondary Education, Assam, however, no explanation is given under what circumstance even after the opinion of the learned Advocate General, Assam, the detailed report was sought. Subsequently, the Director of Secondary Education, Assam submitted the detailed report on 26.06.2023 and the connected appeal was filed on 17.06.2025. No sufficient explanation has been given for the said period.

10. In our opinion, such conduct is nothing but administrative lethargy and laxity, which can never stand as a sufficient ground for condonation of delay, especially when the State machinery is involved, as held by the Hon'ble Apex Court in **Shivamma (DEAD) by LRS Vs. Karnataka Housing Board & Ors. (Civil Appeal No. 11794/2025)**.

11. In our opinion, the Constitutional Court, in the given facts of the present case, should not bypass the procedure for State agencies that are lackadaisical in their approach.

12. 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.

13. The facts detailed at paragraph Nos. 4 to 6, 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.

14. 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.

15. Accordingly, the present interlocutory application stands dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant