

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2561 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE DEVAN M. DESAI**

Approved for Reporting		Yes	No

M/S TINY GIRL CLOTHING CO. PVT.LTD

Versus

SHRI LOVLESHKUMAR RAMKUMAR GUPTA

Appearance:

MR YOGI K GADHIA(5913) for the Petitioner(s) No. 1

THAKKAR AND PAHWA ADVOCATES(1357) for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE DEVAN M. DESAI**Date : 18/08/2026****JUDGMENT**

1. The present petition is filed under Articles 226 and 227 of the Constitution of India, 1950 by the petitioner praying for the following reliefs:

“(A) Your Lordship may be pleased to issue a Writ of Certiorari and/or writ of mandamus and/or any other appropriate writ, order or direction be issued to quash and set aside the impugned order dated 04.11.2024 (Annexure – A) passed in Miscellaneous Application No. 54 of 2024 by the Ld. Labour Court, Valsad, and further be pleased to quash and set aside the ex-parte award dated 04.09.2021 passed in Reference (LCV) No. 98 of 2018 (Annexure – B);
(B) Pending the admission hearing and final disposal of this petition, this Hon’ble Court may be pleased to stay the execution, implementation, and operation of the impugned order passed in Miscellaneous Application No. 54 of 2024 as well as the ex-parte award dated 04.09.2021 passed in Reference (LCV) No. 98 of 2018 (Annexure – A), further be pleased to

*stay the proceedings of Recovery Application No. 72 of 2022 pending before the Ld. Labour Court, Valsad (Annexure – F);
(C) Any other and further relief or reliefs to which this Hon'ble Court deemed fit, in the interest of justice; may kindly be granted;”*

2. Rule returnable forthwith. Learned advocate Ms. Simran Pahwa for Thakkar and Pahwa Advocates waives service of Notice of Rule for and on behalf of respondent. Upon joint request and with the consent of learned advocates for both the parties, the present petition is taken up for final hearing.

Heard learned advocate Mr. Yogi Gadhia for the petitioner and learned advocate Ms. Simran Pahwa for Thakkar and Pahwa Advocates for the respondent.

3. Brief facts of the case are as under:

3.1 Respondent – workman challenged the termination order dated 08.12.2017 by way of Reference before the learned Labour Court, Valsad being Reference (LCV) No. 98 of 2018. The summons of Reference were served upon the petitioner, however, the petitioner did not appear, resultantly, learned Labour Court, vide ex-parte judgment and award dated 04.09.2021, partly allowed the Reference by directing the present petitioner to reinstate the workman with 50%

back-wages. Thereafter, the workman filed Recovery Application No. 72 of 2022. There, petitioner was served and appeared through its learned counsel. The petitioner, thereafter, filed a Restoration Application under Rule 26(A) (2) of the Industrial Disputes (Gujarat) Rules, 1966 along with an application for condonation of delay of 2 years and 4 months. The application for condonation of delay came to be rejected by order dated 04.11.2025.

3.2 Being aggrieved and dissatisfied with the orders passed by the learned Labour Court, the petitioner is before this Court by way of the present petition.

4. Learned advocate for the petitioner has mainly relied upon the averments made in the application for condonation of delay and submitted that the notice of Reference was duly served, however, the proceedings were not properly attended by the petitioner and, therefore, an ex-parte award came to be passed against the petitioner. The award was published on 02.11.2021. When the notice of Recovery proceedings was served upon the petitioner, the petitioner came to know about passing of ex-parte award. The submission of learned advocate for the petitioner

substantiating the delay of 2 years and 4 months in preferring the application is that the petitioner, after gaining knowledge about the ex-parte award, engaged 3 different learned counsels. However, the petitioner was not satisfied with said 3 learned counsels which resulted into delay. It is submitted that there is no intentional delay on part of petitioner. It is prayed that the petitioner be given an opportunity to defend the Reference proceedings as the petitioner has good and strong case both on facts and law. Except above, no other submissions were made by learned advocate for the petitioner.

5. *Per contra*, learned advocate for the respondent has vehemently objected to the grant of the present petition and contended that the petitioner was well within the knowledge about the Reference proceedings as well as the award passed in Reference. It is submitted that change of learned counsels by petitioner is not a sufficient cause whereby, a huge delay of 2 years and 4 months can be condoned. It is submitted that the rejection of application for condonation of delay is just and proper and no interference is required by this Court. Except above, no other submissions were made by learned advocate for the respondent.

6. I have considered the submissions made by learned advocates for the parties and perused the papers placed on record. The short question involved in the present petition is whether the order of rejection of an application for condonation of delay is a justifiable order or not. The record indicates that the workman raised an industrial dispute by way of Reference in the year 2018, contending that his services are wrongly and illegally terminated by the petitioner. Undisputedly, the summons/notice of the Reference proceedings was duly served upon the petitioner. However, for reasons best known to the petitioner, the petitioner remained absent, and the learned Labour Court proceeded with the Reference. After considering the evidence available on record, learned Labour Court partly allowed the Reference of workman and directed petitioner to reinstate workman into services with 50% back-wages. The award was published on 02.11.2021. The petitioner did not comply with the award and resultantly, the workman was constrained to initiate Recovery proceedings. The notice under Recovery proceedings is also undisputedly served upon the petitioner at new address as shown in the Recovery proceedings. Thereafter, the petitioner moved an application for restoration of Reference with an application for condonation of

delay of 2 years and 4 months. The reason for delay is attributed to change of counsels by the petitioner. As such, except for the said reason, no other explanation is forthcoming from the application for condonation of delay. The law, on the question of condonation of delay is well settled. The erring party must substantiate and establish sufficient cause for delay. Change of learned counsels, does not form a sufficient cause for condoning the delay. Switching over to different learned counsels is generally rejected by Courts as a valid standalone excuse. Litigant must remain active and monitor their case. Shifting complete blame of counsels / advocates without concrete proof is insufficient. An applicant must usually provide a clear, date-anchored explanation for delay rather than relying on vague allegations against counsels. Change of different learned counsels, without any details, is not construed as sufficient cause. Grant or rejection of an application for condonation of delay is purely a discretion of the Court. A party, by way of a right, cannot assert to have discretionary relief in its favour. The learned Labour Court, in the present case, found that the explanation assigned by the petitioner does not attribute sufficient cause and rejected the application. There is no dispute on the fact that there is a delay of 2 years and 4 months in

preferring an application for restoration of Reference. The present is the case where the petitioner remained inactive with open eyes. However, considering the overall aspect of the matter as well as in the interest of justice, I am of the view that an opportunity be given to the petitioner to defend the Reference proceedings. However, such leniency cannot be extended in favour of the petitioner without imposing cost on the petitioner, considering the length of delay. Therefore, considering the length of the delay, the application for condonation of delay, as well as the application for restoration of Reference (LCV) No. 98 of 2018 under Rule 26(A)(2) of the Industrial Disputes (Gujarat) Rules, 1966, are hereby allowed, subject to petitioner depositing an amount of Rs.15,000/- towards costs, to be paid to the workman within a period of two weeks from the date of receipt of this order, failing which, the impugned order rejecting the application for condonation of delay shall stand revived automatically. The Reference is of the year 2018. Considering the passage of time, it would be in the fittest of things to direct the learned Labour Court, Valsad, to expedite the proceedings in Reference (LCV) No. 98 of 2018. The learned Labour Court, Valsad shall decide the Reference Proceedings within a period of 8 months from the date of receipt of this order.

Both the parties shall give full co-operation to the learned Labour Court without seeking unnecessary adjournments. The impugned order dated 04.11.2024 passed in Miscellaneous Application No. 54 of 2024 by the learned Labour Court, Valsad and the ex-parte award dated 04.09.2021 passed in Reference (LCV) No. 98 of 2018 is hereby quashed and set aside. The present petition stands disposed of as allowed.

7. The workman shall furnish his bank details to the petitioner to enable the petitioner to transfer the amount of costs of Rs.15,000/- to the bank account of the workman.

(D. M. DESAI,J)

MUSKAN

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MUSKAN AJAY MENON(HC02359), ENGLISH STENO GRADE-II, at High Court of Gujarat on 01/09/2026 11:27:49