



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 2988 of 2024

State of Odisha and another

....

Appellants

Represented by Adv.-
Mr. Debaraj Mohanty, AGA

-Versus -

Maheswar Mallick and others

....

Respondents

Represented by Adv.-
Mr. J.R. Khuntia, Advocate

CORAM:

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

AND

HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

28.11.2025

(Hybrid mode)

Order No.

- 03.** 1. Office note put up by the Registry indicates that response of opp.party-respondent has not been filed in the I.A. seeking condonation of delay. Mr. J.R.Khuntia submits that he is filing objection today.
2. Objection is taken on record. Copy served on learned AGA in Court.

I.A. No. 7792 of 2024

- 3.** Heard learned AGA.

It is submitted referring to the I.A. supported by affidavit particularly paragraphs 4 to 9 that sufficient cause has been shown in condoning the reported delay of 158 days in filing the appeal. Referring to the paragraphs 1 & 2 of the I.A. it is submitted that the appellants otherwise have an arguable case on merits which needs to be considered by this Court.



4. Learned AGA relies on decisions of the Hon'ble Supreme Court in the SLPs, wherein about 500 or more SLPs have been allowed by the Apex Court setting aside orders passed by this Court in not condoning the delay in filing Writ Appeal. Learned AGA specifically cited decision of the Apex Court in ***Nikunja Kishore Panigrahi (supra)*** wherein the Court has condoned the delay of more than 500 days in filing the writ appeal.

5. Learned counsel Mr. Khuntia for the respondents vehemently opposes the prayer for condonation of delay and submits that the reasons stated explaining delay are too frugal to be accepted. Learned counsel relies on the decision rendered by the Apex Court in ***Shivamma (Dead) by L.Rs. v. Karnataka Housing Board and Ors. : 2025 INSC 1104 : 2025 SCC OnLine SC 1969.***

6. In the following SLPs the I.A.s filed before this Court seeking condonation of delay in filing Writ Appeals by the Hon'ble Supreme Court were considered and SLPs were allowed by the Apex Court.

Sl. No.	Name of the parties	SLP Nos.	DATE
1.	<i>State of Odisha and others v. Nikunja Kishore Panigrahi</i>	SLP(C) No.2146 of 2024	21.11.2023
2.	<i>State of Odisha and others v. Madhurima Panigrahi</i>	SLP(C) No.9008 of 2024	10.09.2024
3.	<i>State of Odisha and others v. Prasanna Kumar Jena and others</i>	SLP(Civil) No.25180 of 2024	14.02.2025



4.	<i>State of Odisha v. Sudhansu Sekhar Jena</i> (disposed of on 09.10.2025 by this Bench in W.A. No. 1134 of 2023)	SLP(C) No.2146 of 2024	21.02.2025
5.	<i>State of Odisha v. Ajaya Kumar Bhoi</i>	SLP(Civil) No. 23039 of 2024	19.3.2025
6.	<i>State of Odisha & another v. Shantilata Swain and another</i>	SLP(Civil) No. 15194 of 2024	21.07.2025
7.	<i>State of Odisha and others v. Bhikari Charan Prusty</i>	SLP(C) No. 13762 of 2024	15.10.2024

In all the above writ appeals delay has been condoned by the Apex Court after considering the reasons stated by the appellant-State in I.A. filed before this Court in W.A. and giving a finding that the sufficient cause has been shown.

7. We are presented with the situation where we have to decide whether the reported delay of 158 days in filing the appeal is to be condoned or not.

In the case of **State of Odisha and others v. Madhurima Panigrahi, SLP(C) No.9008 of 2024**, twelve SLPs were taken up together and it was held by the Hon'ble Apex Court as follows –

“5. In cases of this nature, which may have implication for a large number of Government employees and also financial implication for the State, the Division Bench ought to have considered the merit of the State's challenge particularly when most of the Writ Appeals were not filed with inordinate delay.

6. In the above circumstances, we deem it appropriate to set aside the impugned judgment(s) of the Division Bench. The appeals are accordingly disposed of. The



matters are remitted back to the Division Bench of the High Court so that a decision on merit on the State's challenge, can be rendered. Effort should be made for early disposal of the Writ Appeal(s)."

8. In State of Odisha v. Sudhansu Sekhar Jena, [SLP(C) No. 2146 of 2024,] 2025 INSC 259, 308 SLPs filed by the State were allowed by setting aside the order(s) passed by the Coordinate Bench(es) of this Court in not condoning the delay in filing writ appeals, not considering the matter on merit and directing dismissal of the writ appeals. The Apex Court observed condonation of delay in all the 308 matters and remanded all the matters for consideration of the writ appeals on merit.

9. In State of Odisha and Others v. Nikunja Kishore Panigrahi, SLP(C) No.11443/2023, delay of one and half years in filing the writ appeal was not condoned by this Court, relying on the earlier decision of the Coordinate Bench in **State of Odisha and others v. Surama Manjari Das, WP(C) No.15763 of 2021.** In the SLP, the said order dismissing the writ appeal on the ground of delay was challenged by the State. The Supreme Court while condoning the delay of one and half years in filing the writ appeal, held thus –

*"3. The order impugned has been passed by the High Court of Orissa dismissing the Writ Petition simply on the ground of delay and laches relying upon the judgment/order of the High Court of Orissa in the case of **State of Odisha vs. Surama Manjari Das** [W.P. (C) No.15763 of 2021 dismissed on 16th July, 2021].*

4. Learned counsel for the appellant – State submits that the delay was only of one and a half years and the



issue requires consideration and hearing on merits. Further, it was submitted that this is not an isolated case per se for the reason that it has other ramifications as various such claims will have to be dealt with and any order not going into the merits would also entail financial liability on the State.

5. Learned counsel for the respondent has referred to an order passed by a coordinate Bench in which the order impugned was in similar terms and the writ petition has been dismissed on the ground of gross delay. Having considered the matter, the Court finds that in the present case, the delay was not such that it could be termed as gross delay or laches, which were totally attributable to the appellants. In the present case, the delay was only of one and a half years and initially when the Writ Petition was filed in the year 2019 challenging the order dated 04th December, 2017 and there was a stay which continued almost for two years and when the matter was taken up the Court had dismissed it only on the ground of delay.

6. Having considered the matter, the Court finds that the issue is required to be heard on merits. However, the Court is not inclined to consider the merits at this stage as the High Court would be a more appropriate forum for the present for the issue to be thrashed out on merits.”

10. In **State of Odisha v. Ajaya Kumar Bhoi & another, SLP(C) No. 23039/2024**, order passed in the writ appeal by the Coordinate Bench in not condoning the delay was set aside by the Apex Court and the matter was remanded to be considered on merits by this Court, which has again come to be listed before this Court.

11. The reliance of the Coordinate Bench(es) on **Surama Manjari Das** (*supra*) is for the fact that the said decision was challenged by filing SLP and the SLP was dismissed. However,



subsequently the Hon'ble Supreme Court have taken view as we have noted above and condoned delay in filing Writ Appeals.

We also observe that, condonation of delay would not add any merit to the case of the appellant, which has to stand on its own merit.

Accordingly, the delay of 158 days in filing the appeal is condoned. The I.A. is favoured and disposed of.

12. We notice that ***Shivamma (supra)*** did not have occasion to consider the seven decisions rendered by the apex Court of co-equal Benches by which more than five hundred SLPs were disposed of. In any event the condonation of delay by the Apex Court is a matter of discretion and ***Shivamma (supra)*** cannot be cited raising contention that earlier decisions have been overruled.

13. In our considered opinion, condonation of delay will not add any further merit to the case of the appellants. In view of the above discussions, the reported delay of 158 days in filing the appeal is condoned.

14. I.A. is favoured and disposed of.

W.A. No. 2988 of 2024

15. Heard learned AGA.

Issue notice.

Since Mr. K.K.Swain and associates have already entered appearance and on record, no further notice be issued. Copy of the appeal memo along with I.A. and other connected papers have been served on Mr. Khutia.



I.A. No. 7793 of 2024

16. Pursuant to the notice issued on 13.10.2025, learned counsel for respondent is on record. When we take up for consideration of the interim order of stay, learned counsel for respondents vehemently opposes the interim prayer stating that appellate court should not stay the operation of the interim order. We have pointedly asked whether he relies on any decision of the apex Court or any binding precedent of this Court wherein the appellate Court while considering the appeal should not direct in the interim, stay of operation of the order under challenge; learned counsel does not have any answer.

17. It is brought to our notice by learned AGA for the appellants that contempt application has been filed for non-compliance of the impugned order. The contempt application not being assignment of this Bench, cannot be taken up by us.

18. We are faced with a situation where during pendency of the appeal before this Court, the appellant (may be as a correct strategy) tries for implementation of the order under challenge.

Now if the order is implemented, nothing would survive for adjudication in the Appeal.

The learned counsel for the respondent further submits that the matter should be taken up for hearing though filed in the year 2024 ahead of other matters. In our considered view,



we cannot prioritise hearing of any case by ignoring the earlier Writ Appeals pending adjudication before this Court.

In view of the above discussions, in the interim, it is directed that the operation of the order dated 22.04.2024 passed in W.P. (C) No.9567 of 2024 shall remain stayed till the next date of hearing.

List 'For Admission' on 9th January, 2026.

Liberty to mention.

(Manash Ranjan Pathak)
Judge

(Mruganka Sekhar Sahoo)
Judge

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