



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Special Appeal Writ No. 53/2025

- 1. State Of Rajasthan, Through Secretary, School Education, Secretariat, Jaipur.
- 2. Director, Secondary Education, Rajasthan, Bikaner.

----Appellants

Versus

Manjubala D/o Shri Brijmohan Saharan, W/o Shri Kalu Ram Thori, Rr/o Ward No. 6, Birdhwal Gaon, Tehsil Suratgarh, District Sri Ganganagar. At Present Lecturer (Political Science), Government Girls Senior Secondary School, Suratgarh, District Sri Ganganagar.

----Respondent

For Appellant(s) : Mr. S.S. Rathore, AAG assisted by Ms. Mehali Mehta

For Respondent(s) :

**HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE SANDEEP SHAH**

Order(Oral)

08/05/2026

Per: Arun Monga, J.

- 1. Applicants seek condonation of delay of 483 days in filing the accompanied appeal. For the reasons stated hereinafter, this is not a fit case where discretion to condone the delay ought to be exercised.
- 2. The appeal is directed against the judgment/order dated 19.05.2023 passed in S.B. Civil Writ Petition No. 6183/2023 whereby learned Single Judge allowed the writ petition in terms of the judgment passed by this Court in ***Sunita Kalwa Vs. State of Rajasthan & Anr.***¹ decided on 10.04.2023, wherein the Court

¹ S.B C.W. Petition No. 2555/2023 Rajasthan High Court

held that since no post of Vice Principal existed on 01.04.2022, the respondents' case ought to have been considered for promotion to the post of Principal. Accordingly, the appellants were directed to reconsider the respondents' candidature against the vacancies of Principal for the year 2022-23 and grant promotion if they are found eligible.

3. The explanation of seeking condonation is totally mechanical and there seems to be no application of mind. No specific details or day to day explanation have been given as to why the matter remain pending.

4. For ready reference, para Nos. 1 to 6 of the application are as below:-

- "1. That the appellants are filing instant special appeal against the order dated 19.5.2023 passed by the learned Single Judge. On the basis of the grounds mentioned in the memo of appeal, the appellants have a very strong case in their favour and there are fair chances of special appeal being allowed if it is heard and decided on merits.*
- 2. That the learned Single Judge allowed the writ petition preferred by the respondent vide order dated 19.5.2023. Thereafter, certified copy of the order dated 19.5.2023 was Directorate of Secondary Education, Bikaner thereafter prepared proposal for filing special appeal and sent to the State Government on 4.7.2024. Meeting of the Litigation Committee was convened on 23.9.2024, wherein, it was decided to challenge the order dated 19.5.2023 by filing special appeal, In pursuance thereof, State Government issued the order dated 8.10.2024 for filing Special Appeal and order appointing O.L.C. has been received by the OIC on 15.10.2024.*
- 3. That thereafter, Officer-in-Charge contacted the Additional Advocate General, Jodhpur on 15.10.2024 itself for filing special appeal in the matter.*
- 4. That the A.A.G. dictated the special appeal/stay petition as well as application u/s 5 of the Limitation Act on 17-10-2024 which is ready on 18-10-2024 and therefore, the same is being filed without any intentional or deliberate delay in the matter.*
- 5. That with great respect, it is most respectfully submitted that the delay caused in filing the special appeal is bonafide and due to official procedure and there is no intentional or deliberate delay on the part of the appellant and therefore, the delay caused in filing the special appeal deserves to be condoned and the special appeal deserves to be heard and decided on merit.*
- 6. That it is respectfully submitted that this Hon'ble Court as also, the Hon'ble Supreme Court of India from time to time, held that looking to the official procedure lenient view should be taken in the matter of State/Union on the point of delay and therefore, in view of the observations of the Hon'ble Courts also, the delay caused in filing the special appeal is liable to be condoned."*

5. It has been averred that the delay in filing the present special appeal has occurred due to bona fide administrative and procedural reasons inasmuch as after passing of the order dated 19.05.2023 by the learned Single Judge, the certified copy was obtained and the matter was processed at various departmental levels, including preparation of proposal by the Directorate of Secondary Education, Bikaner, consideration by the Litigation Committee in its meeting dated 23.09.2024, issuance of Government sanction dated 08.10.2024 for filing the appeal, and appointment of Officer-in-Charge, who thereafter immediately contacted the learned Additional Advocate General for drafting and filing of the appeal. The appeal was thereafter prepared and filed without any further delay. The delay is neither intentional nor deliberate but has occurred due to official procedures and administrative formalities.

6. No doubt in deserving case, Courts are liberal to grant indulgence but instant is not a case of such kind.

7. It is a settled position in law that delay confers crystallized rights in favour of a litigant by virtue of law of limitation. Delay and laches since result in freezing of the vested rights in a party, which seeks enforcement of the same, the said right cannot be taken away unless there is a sufficient cause shown by the party seeking condonation of delay.

8. Having gone through the contents of the application under Section 5 of the Limitation Act seeking condonation of delay, it transpires that not only a completely beaten up stand has been taken therein justifying the delay in the most mechanical and nonchalant manner, but, even otherwise, it lacks the necessary particulars.

9. Qua the law applicable on condonation of delay, reference may be had to Apex Court judgment in **Ramlal and others Vs. Rewa Coalfields Ltd.**² Relevant extract of the same is reproduced hereinbelow:-

"7. In construing Section 5 it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of decree holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge and this legal right which has accrued to the decree holder by lapse of time should not be light heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the Court to condone delay and admit the appeal. This discretion has been deliberately conferred on the Court in order that judicial power and discretion in trial behalf should be exercised to advance substantial justice."

10. Reference may also be had to another Apex Court judgment in **Ajit Singh Thakur Singh v. State of Gujarat**,³ wherein it is observed thus:-

".....it is true that a party is entitled to wait until the last day of limitation for filing an appeal, but when it allows limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal, but that the limitations has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. In the present case, there was no such cause, and the High Court erred in condoning the delay."

11. In **Government of Maharashtra (Water Resource Department) Vs. Borse Brothers Engineers and Contractors Private Limited**⁴. Hon'ble the Supreme Court once again held as under:-

"59. Likewise, merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in Postmaster General v. Living Media (India) Ltd.⁷⁰ "Postmaster General", as follows: (SCC pp. 573-74. paras 27-29).

2. 1962 AIR (SC) 361

3. AIR 1981 SC 733

4. 2021 SCC OnLine SC 233

27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

12. In another recent Apex Court judgment in **Shivamma (dead) by Lrs Vs. Karnataka Housing Board & Ors.**⁵, it is observed thus:-

"XXXXX

XXXXX

XXXXX

261. Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with bona fides and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

262. The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and

should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.

263. Limitation periods are prescribed to maintain a sweeping scope for the lis to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the lis for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.

264. No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law."

13. The argument of the learned counsel for the appellant that the judgment in the case of **Sunita Kalwa and Anr. Vs. State of Rajasthan (supra)**, basis which the writ petition was allowed, is under challenge in writ appeal, does not persuade us to entertain this appeal at this belated stage. For ready reference, the judgment impugned is reproduced herein below:-

"Learned counsel for the parties are in agreement that the controversy involved in the present case is squarely covered by a judgment of this Court rendered in S.B Civil Writ Petition No.2555/2023 (Sunita Kalwa & Anr. Vs. State of Rajasthan & Anr.) decided on 10.04.2023.

For the self same reasons, the present writ petition is also allowed in terms of the judgment passed by this Court in the case of Sunita Kalwa (supra)."

14. However, we may observe here that in case, the order in the case of **Sunita Kalwa and Anr. Vs. State of Rajasthan (supra)** is reversed, the appellant would have liberty to apply for review before the learned Single Judge.

15. As an upshot, both, the application for condonation of delay as well as main appeal are accordingly dismissed.

16. Any pending application also stands disposed of.

(SANDEEP SHAH),J

(ARUN MONGA),J

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