

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Review Petition (Writ) No. 289/2019

Union Of India

-----Petitioner

Versus

Shri Brijraj Singh S/o Shri Bhim Singh

-----Respondent

Connected With

D.B. Civil Contempt Petition No. 1825/2018

Brijraj Singh S/o Late Shri Bhim Singh Ji

-----Petitioner

Versus

Shri Sanjay Mitra Ias (Wb 82) Secretary To Department Of
Defence

-----Respondent

For Petitioner(s)	:	Mr. Bharat Vyas, Senior Advocate, ASG with C.S. Sinha and Mr. Mayank Kamwar
For Respondent(s)	:	Mr. R.K. Agarwal, Senior Advocate with Mr. Adhiraj Modi

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

19/03/2026

D.B. Misc. Application No.1048/2019 in D.B. Review
Petition No.289/2019:

1. The instant D.B. Civil Review Petition under Order 47 Rule 1 and 2 read with Section 114 of CPC read with Article 226 of the Constitution of India is filed by the review petitioners (Union of India and another), to review the judgment dated 14.07.2017 in D.B. Special Appeal Petition No. 585/2002 titled as "*Union of India and Anr. versus Shri Brijraj Singh and Anr.*"

2. The office has pointed out a delay of 845 days and, to condone the delay, an application under Section 5 of the Limitation Act is filed by the review petitioners, supported with the affidavit of Ms. Ankita Singh, working as Defence Estate Officer, Jaipur Circle, Jaipur. A reply has been filed on behalf of the non-applicant/respondent.
3. Learned Additional Solicitor General appearing on behalf of the review petitioners submit that the D.B. SAW was decided on 14.07.2017 and, thereafter, the appellants/review petitioners decided to challenge the judgment before Hon'ble Supreme Court by filing a SLP. He further submitted that the SLP was dismissed on 20.08.2018 after condonation of delay of 402 days. He further submitted that the matter was re-examined by the learned Additional Solicitor General and the department after revelation of certain new facts related to ongoing litigation between the respondent and the State Government. He further submitted that, on legal advice, the review petitioners have filed the present review petition after a delay of 443 days from the dismissal of the SLP (Civil) by Hon'ble Supreme Court.
4. He further referred to Section 12 of the Limitation Act and submitted that Hon'ble Supreme Court has condoned the delay of 402 days and now the delay is of 443 days, and the same requires favourable consideration from this Hon'ble Court. He also submitted that, as per the facts of the case, proceedings under the Rajasthan Land Reforms and Acquisition of Landowners' Estates Act, 1963 were instituted before the Commissioner at Kota and, thereafter, the issue

was challenged by the State Government before the Revenue Board, and later writ petition was filed. He also submitted that there is a serious dispute about ownership of the land and, after examination of documents, certain new facts discovered; therefore, the review petition is filed. He further submitted that the delay has occurred due to administrative process, and for condonation of delay, an application under Section 5 of the Limitation Act is filed. He also submitted that the reasons are justified and the action of the review petitioners is bona fide.

5. He also placed reliance upon judgments in the cases of **Collector, Land Acquisition, Anantnag Vs. Katiji reported as AIR 1987 SC 1353, State of NCT of Delhi versus Ahmed Jaan reported as (2008) 14 SCC 582, State of Haryana versus Chandramani reported as (1996) 3 SCC 132, and K.B. Ramchandra Raje versus State of Karnataka, (2016) 3 SCC 422.**
6. Aforesaid contentions were opposed by the learned Senior Advocate appearing on behalf of the non-applicant/respondent on the ground that the SAW was decided on 14.07.2017, whereas the review petition is filed on 06.12.2019, and there is a delay of 845 days and same is required to be explained sufficiently by the review petitioners. He further submitted that the limitation prescribed for filing a review is 30 days and the review petition is filed after 875 days; thus, the petitioner has failed to justify the reasons for delay of 845 days in not preparing the review petition in time. He also submitted that Section 5

of the Limitation Act is not applicable, as the circumstances mentioned therein are not existing in the instant case.

7. Learned Senior Advocate further referred to the casual approach of the review petitioners and submitted that even if Hon'ble Supreme Court has condoned delay of 402 days, that does not mean that 402 days, shall not be treated as delay. He further submitted that the review petition has to be filed in time from the date of judgment of the DB-SAW and the petitioners are required to explain further delay of 85 days.
8. He further relied upon the judgment in the case of **Mathai @ Joby vs. George & Anr., reported in (2010) 4 SCC 358**, and submitted that the discretion to grant special leave to appeal lies with the Hon'ble Supreme Court, and same is not an appeal. He further referred to and relied upon the judgment in the case of **Shivamma (Dead) by LRs vs. Karnataka Housing Board, reported as 2025 INSC 1104**, and submitted that Section 5 of the Limitation Act provides for condonation of delay and, to condone the delay, adequacy of cause is required to be shown on record.
9. Learned Senior Advocate further submitted that no litigant should be permitted to be so lethargic and apathetic, much less be permitted by the Courts to misuse the process of law. He also submitted that the government machinery was well aware about the limitation and they have not taken a decision on time and, in such circumstances, no relief against public policy be granted to them. He further submitted that where there is no justification of delay in the

application and on record, then the condonation of delay is impermissible.

10. Heard Learned ASG and learned Senior Advocate appearing for the parties and perused the material placed on record, along with the judgments as referred by both the parties.

11. Section 5 of the Limitation Act is reproduced as under:

"5. Extension of prescribed period in certain cases.—

Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."

12. Admittedly, Section 5 applies to any appeal or any application other than an application under the provisions of Order XXI of CPC. The provision refers to "sufficient cause" for condonation of delay and it essentially refers to a reasonable cause which prevented the party from filing the appeal or application within time, but the same has to be determined from case to case by the Court.

13. In case of **Collector, Land Acquisition, Anantnag Vs. Katiji AIR 1987 SC 1353**, Hon'ble Supreme Court laid

down following principles in considering application for condonation of delay:

"1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every days delay must be explained" does not mean that a pedantic approach should be made. Why not every hours delay. every seconds delay? The doctrine must be applied in a rational common sense pragmatic manner

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

14. Again, condonation of delay under Section 5 of the Limitation Act was considered by Hon'ble Supreme Court in case of **P. Subba Reddy (died) by LR's. And Ors. Vs. Special Deputy Collector (LA) reported as 2024 INSC 286,**

wherein also it was held that unless sufficient cause is shown the application under Section 5 of Limitation Act cannot be allowed. The underlying provisions after harmonious construction of provision of law were formulated in following manner:

"(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not

satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision."

15. In the case of **State (NCT of Delhi) vs. Ahmed Jaan (supra)**, Hon'ble Supreme Court has held that what matters is not the length of delay but the sufficiency of cause, and shortness of delay is one of the circumstances to be taken into account while exercising discretion. The provision contemplates that the Court has to place itself in the position of the person concerned and to find out if the delay can be said to have resulted from the circumstances which he had faced and whether the cause can be recorded in the particular circumstances of the case as sufficient. What constitutes "sufficient cause" cannot be laid down by hard and fast rules. No special indulgence can be shown to the Government which, in similar circumstances, is not shown to an individual suitor, one cannot but take a practical view of the working of the Government without being unduly indulgent to the slow motion of its wheels. Adoption of strict standard of proof sometimes fail to protract public justice, and it would result in public mischief by skilful management of delay in the process of filing an appeal.

16. After considering a three-Judge Bench judgment in the case of **O.P. Kathpalia vs. Lakhmir Singh (Dead) & Ors., reported in (1984) 4 SCC 66**, wherein it was held that refusal to condone delay resulting in grave miscarriage of justice would be a ground to condone the delay, the application for condonation of delay can be allowed, condoned the delay on an appeal filed by the State.
17. In the case of **State of Haryana vs. Chandramani & Ors. (supra)**, a three-Judge Bench of Hon'ble Supreme Court, while considering Section 5 of the Limitation Act in an appeal filed by the State, has held that "sufficient cause" for delay should be considered in a pragmatic and justice-oriented manner and a certain amount of latitude within reasonable limits is permissible having regard to the impersonal bureaucratic setup, including red-tapism. It was further observed that in a large number of cases filed in the Courts, whether by private parties or the State, matters are barred by limitation, and the Courts generally adopt a liberal approach in condonation of delay so as to decide the matters on merits. Finally, the concept of "sufficient cause" is to be applied in a manner so as to advance substantial justice and to decide the appeals on merits.
18. In the case of **K.B. Ramachandra Raja URS vs. State of Karnataka (supra)**, it was held that while exercising jurisdiction under Article 226 of the Constitution of India, the High Court is not bound by any strict rule of limitation and, if any substantial issue of principle importance touching upon fairness of governmental action does arise, delayed

approach to the Court will not stand in the way of exercise of the Court's jurisdiction and delay should not come in the way of adjudication of the petition on merits.

19. In the case of **Mathai @ Joby vs. George & Anr. (supra)**, Hon'ble Supreme Court, while considering Articles 136 and 145 of the Constitution of India regarding the Supreme Court's discretion to grant special leave to appeal, has held that Article 136 does not confer any right of appeal upon any party but merely vests discretion in the Court to interfere in exceptional cases.
20. In the case of **Shivamma (Dead) by LRs vs. Karnataka Housing Board (supra)**, Hon'ble Supreme Court, while considering Sections 3 and 5 of the Limitation Act, held that the law of limitation is founded on public policy and the object of limitation is to put a quietus to stale and dead disputes. A person ought not to be allowed to agitate his claim after allowing delay and latches. Rules of limitation are not meant to destroy the rights of parties; rather, they are meant to ensure that parties do not resort to dilatory tactics but seek their remedy promptly.
21. Hon'ble Supreme Court in the case of **Shivamma (Dead) by LRs vs. Karnataka Housing Board (supra)** further observed that the phrase "sufficient cause" in Section 5 of the Limitation Act is an expression of elastic import, incapable of precise definition, yet not without boundaries, and its purpose is to empower courts to advance the cause of justice by preventing genuine litigants from being shut out on account of inevitable delays. At the same time, the

phrase is not a device to revive stale or time-barred claims which the law of limitation otherwise bars. The burden to establish sufficient cause lies upon the party seeking condonation, and the Court must be satisfied that the cause is real, bona fide, and free from negligence. The sufficiency of cause is to be determined contextually, on the totality of circumstances, having regard to the conduct of the party and the prejudice caused to the opposite party. No litigant should be permitted to be lethargic and apathetic, much less be permitted by courts to misuse the process of law.

22. It was further held that unlike a private litigant, where the State or any of its instrumentalities happens to be the litigant in a lis, the decision to prefer an appeal or file an application is seldom the result of a singular will; rather, it emerges from a collective exercise involving procedural compliance, legal opinion, administrative authorisation and responsible officers bound by rigid protocols and established hierarchies. Consequently, it was an accepted norm that unavoidable delays would inevitably arise in its litigation, not out of any want of diligence or mala fides, but as a by-product of the bureaucratic processes. Unlike in the case of private parties, where the consequences of dismissal may remain confined to the litigants themselves, the dismissal of a proceeding initiated by the State has a cascading effect, as it directly impacts the community whose interests the State represents. Adoption of a rigid and uncompromising standard towards the State in matters of condonation of delay, would, in substance, punish the public for delays that

are occasioned by systemic and institutional constraints rather than by deliberate inaction or negligence. Condonation of delay is to remain an exception, not the rule. Governmental litigants, no less than private parties, must demonstrate bona fide, sufficient, and cogent cause for delay. Absent such justification, delay cannot be condoned merely on the ground of the identity of the applicant.

23. Having considered the judgments as referred by the learned Senior Advocates appearing on behalf of the parties, the issue before this Court is the bona fides of the review petitioners in filing the review petition. No doubt, the review petitioners are the Union of India, i.e., the Government. The issue is required to be examined by the legal section and consultation has to take place with the learned Additional Solicitor General or a senior legal advisor, and thereafter a decision is taken, at highest level to file a review.
24. Learned ASG has impressed upon the Court that there was no negligence on the part of the review petitioners, as time was consumed in procuring certain documents, which resulted in re-examination of the matter after dismissal of SLP (Civil), and on the basis of legal advice, the present review petition has been drafted and filed. The law on condonation of delay has been well settled and we have referred the judgments relied by the counsel for the parties.
25. Again, a three-Judge Bench judgment in the case of **State of Manipur & Ors. vs. Koting Lamkang, reported in 2019 INSC 1182**, has considered the issue of delay and held that delay is required to be condoned in the interest of justice, as

refusal may result in injustice, particularly keeping in view the institutional functioning of the State and the impersonal nature of governmental decision-making, even where an individual officer may fail to act responsibly.

26. Considering the three-Judge Bench judgments in the cases of **State of Haryana vs. Chandramani (supra)** and **State of Manipur vs. Koting Lamkang (supra)**, Hon'ble Supreme Court has condoned delay after taking into account the procedural aspects involved in filing an appeal by the State. The principles of law as laid down in **Collector, Land Acquisition, Anantnag Vs. Katiji (supra)**, which has been followed till date, and further the judgment in **Shivamma (Dead) by LRs vs. Karnataka Housing Board (supra)**, the Court has to consider the bona fide, sufficient, and cogent cause of delay.
27. In the instant case, the application itself explains that after dismissal of the SLP, certain relevant documents were called for and, after submission of said documents, the matter was thoroughly examined and thereafter current review petition was drafted. Learned ASG has raised certain issues during the course of arguments, but the same are not being referred to, as the grounds of review are different from the grounds for consideration of the application under Section 5 of the Limitation Act.
28. There is no iota of material on record to indicate that the delay was deliberate or that the officers or the review petitioners have filed the review petition with mala fide intent, therefore, considering the statement supported with

affidavit and also the legal position as discussed herein above, it is appropriate to allow the application for condonation of delay and permit the review petitioners to address the Court on merits of the review petition.

29. In view of the discussion made herein above, the application filed under Section 5 of the Limitation Act is hereby allowed and the delay in filing the review petition is hereby condoned.

30. Miscellaneous application stands disposed of.

31. List the matter along with connected matter on 01.04.2026.

(ASHOK KUMAR JAIN),J

(INDERJEET SINGH),J