

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. OF 2024**  
**(Arising out of SLP(C) No. 985 of 2023)**

**KAMAL SAJATI & ORS.**

**Appellant(s)**

**VERSUS**

**THE STATE OF ASSAM & ORS.**

**Respondent(s)**

**O R D E R**

1. Leave granted.
2. The appeal challenges the order dated 5<sup>th</sup> December, 2022 passed by the Division Bench of the Gauhati High Court at Gauhati in I.A. (Civil)/1447 of 2022, whereby the application filed by the respondent-State for condonation of delay in filing the appeal came to be allowed.
3. The respondent-employees had approached the learned Single Judge of the High Court of Gauhati. Their claim was that they are working as Sanskrit Teachers in various private schools.

4. It was further their case all the schools in which they were working had been provincialized under the provisions of the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011.

5. It was further their case that in pursuance of the said enactment, the services of all other teaching and non-teaching staff were provincialized, except the appellants.

6. The learned Single Judge after finding that the appellants were otherwise eligible and their provincialisation was held up only on the ground that there were no students taking up the subject of Sanskrit in the last couple of years, the reasoning given was not sustainable in law.

7. It was further found that in some of the schools where no students had appeared for the examination in the years 2009, 2010 and 2011 in the subject of Sanskrit still the services of similarly placed teacher were provincialised.

8. The State preferred a review petition which was withdrawn on 07<sup>th</sup> March, 2019.

9. Being aggrieved thereby an appeal came to be preferred by the State alongwith an application for condonation of delay of 2106 days.

10. The ground raised in the application for condonation of delay was that the withdrawal of the review petition, seeking review of the order of the learned Single Judge of the High Court, was without instruction of the State.

11. The order, of which the review was sought is dated 25<sup>th</sup> May, 2016 whereas the review application was withdrawn on 07<sup>th</sup> March, 2019.

12. On a specific query as to what action the State had taken against the counsel, who, according to the State, had withdrawn the review without instructions, learned counsel for the respondent is not in a position to state anything.

13. No doubt, that some degree of leniency is required to be shown when the appellant(s) is a State or instrumentality of the State, inasmuch as the files go through various departments.

14. However, when the delay is of more than six years, the High Court could not have in a casual manner by only observing that the reason given by

the State was satisfactory, condoned the delay.

15. Even if it is accepted that for a period of three years, when the review was pending was to be excluded, the further delay of more than three years in filing an appeal is not at all explained.

16. In that view of the matter, we find that the impugned judgment and order dated 5<sup>th</sup> December, 2022 is invalid on the face of the record and the same is quashed and set aside. Consequently, the appeal filed by the State shall stand dismissed on the ground of non-filing within limitation.

17. Needless to state that though the appellants were waiting in the corridors of justice from the year 2016 for implementation of the just order passed in their favour by the learned Single Judge of the High Court, they have been denied the fruits thereof for almost eight years.

18. As such, we direct the State to implement the order dated 25<sup>th</sup> May, 2016 passed by the learned Single Judge of the High Court qua the appellants herein within a period of four weeks from today.

19. The appeal is disposed of in the above terms.

20. Pending application(s), if any, stand(s) disposed of.

.....J  
(B.R. GAVAI)

.....J  
(SANDEEP MEHTA)

New Delhi  
February 12, 2024

ITEM NO.52

COURT NO.3

SECTION XIV

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (C) No(s). 985/2023

(Arising out of impugned final judgment and order dated 05-12-2022 in IA(C) No. 1447/2022 passed by the Gauhati High Court)

KAMAL SAJATI &amp; ORS.

Petitioner(s)

VERSUS

THE STATE OF ASSAM &amp; ORS.

Respondent(s)

(IA No. 7433/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 13894/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 12-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI  
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s)

Mr. Manish Goswami, Adv.  
Mr. Rameshwar Prasad Goyal, AOR

For Respondent(s)

Mr. Debojit Borkakati, AOR

UPON hearing the counsel the Court made the following  
O R D E R

1. Leave granted.
2. The appeals is disposed of in terms of the signed order.
3. Pending application(s), if any, stand disposed of.

(DEEPAK SINGH)  
COURT MASTER (SH)

(ANJU KAPOOR)  
COURT MASTER (NSH)

[Signed order is placed on the file]