

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE**

**HON'BLE SHRI JUSTICE HIRDESH**

**ON THE 15<sup>th</sup> OF MARCH, 2024**

**SECOND APPEAL No. 1576 of 2020**

**BETWEEN:-**

**THE STATE OF MADHYA PRADESH  
THROUGH THE COLLECTOR, DEWAS  
DISTRICT-DEWAS (MADHYA PRADESH)**

**.....APPELLANT**

***(MR. CHETAN JOSHI, ADVOCATE FOR APPELLANT/STATE)***

**AND**

**HIMMAT SINGH S/O NATHU SINGH SENDHAV, AGED ABOUT  
1. 63 YEARS, VILLAGE BAMANI, TEHSIL BAGLI (MADHYA  
PRADESH)**

**BHEEM SINGH S/O NATHU SINGH SENDHAV, AGED ABOUT 66  
2. YEARS, OCCUPATION: AGRICULTURE VILLAGE BAMANI  
TEH. BAGLI (MADHYA PRADESH)**

**TEJ SINGH S/O NATHU SINGH SENDHAV, AGED ABOUT 58  
3. YEARS, OCCUPATION: AGRICULTURE VILLAGE BAMANI  
TEH. BAGLI (MADHYA PRADESH)**

**GAJRAJ SINGH S/O NATHU SINGH SENDHWAV, AGED ABOUT  
4. 56 YEARS, OCCUPATION: AGRICULTURE VILLAGE BAMANI  
TEH. BAGLI (MADHYA PRADESH)**

**SURENDRA S/O HIMMANT SINGH SENDHAV, AGED ABOUT 43  
5. YEARS, OCCUPATION: AGRICULTURE VILLAGE BAMANI  
TEH. BAGLI (MADHYA PRADESH)**

**ARJUN S/O HIMMANT SINGH SENDHAV, AGED ABOUT 38  
6. YEARS, OCCUPATION: AGRICULTURE VILLAGE BAMANI  
TEH. BAGLI (MADHYA PRADESH)**

**.....RESPONDENTS**

***(SHRI J.B. MEHTA, ADVOCATE FOR RESPONDENTS)***

*This appeal coming on for orders this day, the court passed*

*the following:-*

**ORDER**

Heard on **I.A. No.3985 of 2020** which is an application under Section 5 of the Limitation Act, 1963, for condonation of delay. The delay is of 656 days.

2. Counsel for the appellants/State submits that the present appeal is delayed by 656 days. He submits that the above delay has been reasonably/sufficiently explained by the State. In the instant case, appellant is State and in Government machinery, processing of the case for appeal takes time, therefore, the delay in filing the appeal be condoned. He has placed reliance over the judgment of Hon'ble Apex Court in the case of **Sheo Raj Singh (Deceased) through legal representatives and Others vs. Union of India and Another reported in (2023) 10 Supreme Court Cases 531** to bolster his submissions.

3. Counsel for the respondent has submitted that appellants/State has not explained delay of 656 days. No documents in support of the averments made in the application has been filed, therefore, just because appellant is State, such huge delay in filing the appeal cannot be condoned. In this context, learned counsel for the respondents has relied upon the judgment in the case of **Post Master General and others Vs. Living Media India Limited and another (2012) 3 SCC 563, Pundlik Jalam Patil (dead) by LRs. Vs. Executive Engineer Jalgaon Medium Project and another (2008) 17 SCC 448, State of Odisha (Vigilance) Vs. Purna Chandra Kandi SLP (Criminal) Diary**

No(s).29657/2019. Hence, it is urged that application and consequently appeal be dismissed.

4. Admittedly, the present second appeal has been filed on 17.12.2020 challenging judgment and decree passed by 16<sup>th</sup> Additional District Judge, Indore on 21.08.2018 passed in Civil Appeal No.01 of 2016.

5. It is apparent from the application and affidavits filed by the appellants that no documents, supporting the averments in the application/affidavits etc. have been filed.

6. In the instant case, State is involved, therefore, it would be appropriate to refer the principles regarding condonation of delay involving State.

7. Hon'ble Apex Court in the case of **Post Master General (Supra)** has held as under:-

"22. In Commissioner of Wealth Tax, Bombay vs. Amateur Riders Club, Bombay, 1994 Supp (2) SCC 603.....

After incorporating the above explanation, this Court refused to condone the delay by observing thus:

"3. ... .... Having regard to the law of limitation which binds everybody, we cannot find any way of granting relief. It is true that Government should not be treated as any other private litigant as, indeed, in the case of the former the decisions to present and prosecute appeals are not individual but are institutional decisions necessarily bogged down by the proverbial red-tape. But there are limits to this also. Even with all this latitude, the explanation offered for the delay in this case merely serves to aggravate the attitude of indifference of the Revenue in protecting its common interests. The affidavit is again one of the stereotyped affidavits making it susceptible to the criticism that the Revenue does not

seem to attach any importance to the need for promptitude even where it affects its own interest.”

**[Emphasis supplied].**

23. In *Pundlik Jalam Patil (dead) by LRS. vs. Executive Engineer, Jalgaon Medium Project and Another*, (2008) 17 SC 448, the question was whether the respondent-Executive Engineer, Jalgaon Medium Project had shown sufficient cause to condone the delay of 1724 days in filing appeals before the High Court. In para 17, this Court held:

"17.....The evidence on record suggests neglect of its own right for long time in preferring appeals. The court cannot inquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and "do not slumber over their rights".

24. After referring various earlier decisions, taking very lenient view in condoning the delay, particularly, on the part of the Government and Government Undertaking, this Court observed as under:-

"29. It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his *Jurisprudence* states that the laws come to the assistance of the vigilant and not of the sleepy.

30. Public interest undoubtedly is a paramount consideration in exercising the courts' discretion wherever conferred upon it by the relevant statutes. Pursuing stale claims and multiplicity of proceedings in no manner subserves public interest. Prompt and timely payment of compensation to the land-losers facilitating their rehabilitation/resettlement is equally an integral part of public policy. Public interest demands that the State or the beneficiary of acquisition, as the case may be, should not be allowed to indulge in any act to unsettle the settled legal rights accrued in law by resorting to avoidable litigation

unless the claimants are guilty of deriving benefit to which they are otherwise not entitled, in any fraudulent manner.

One should not forget the basic fact that what is acquired is not the land but the livelihood of the landlosers. These public interest parameters ought to be kept in mind by the courts while exercising the discretion dealing with the application filed under Section 5 of the Limitation Act. Dragging the landlosers to courts of law years after the termination of legal proceedings would not serve any public interest. Settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper

explanation of such delay on the ground of involvement of public revenue. It serves no public interest."

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 bonafide, 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 bonafide 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 government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few".

8. In the case of *State of Odisha (Supra)*, the Hon'ble Apex Court has held that :-

"We do not find that the delay is satisfactorily explained in terms of the judgment of this Court in the case of *Post Master General & Ors. Vs. Living Media India Ltd. & Anr.* reported in (2012) 3 SCC 563, A mere government inefficiency cannot be a ground for condoning the delay. It is for the petitioner to put its own house in order. The special leave petition is dismissed on the ground of limitation."

9. In the case of *Post Master General (Supra)* there was delay of 656 days and application under Section 5 of the Limitation Act for condonation of delay was dismissed by Hon'ble Apex Court. From the principles of law laid down in the case of **Post Master General (Supra)**, it is clear that huge delay cannot be condoned just on the ground that State is involved in the matter and application for condonation of delay has been filed by the State.

10. It is apparent from the record of the case that in the instant case, there is huge delay of 656 days in filing the present appeal and no sufficient cause for such huge delay, supported by relevant documents, has been established. Thus, appellants/State has failed to establish cogent and sufficient reasons to condone such a huge delay, therefore, delay in filing the present appeal cannot be condoned. Therefore, in the considered opinion of this Court, such huge delay cannot be condoned.

11. Hence, **I.A. No.3985 of 2020** filed by the appellants/State under Section 5 of the Limitation Act is dismissed. ***Resultantly***, the appeal filed by the appellants/State is also dismissed as time barred.

Arun/-

**(HIRDESH)**  
**JUDGE**