

IN THE HIGH COURT OF JHARKHAND AT RANCHI

I.A. No. 5088 of 2025**In / And****L.P.A. No. 691 of 2023**

1. The State of Jharkhand through its Chief Secretary, Project Bhawan, P.O. and P.S.-Dhurwa, District-Ranchi, Jharkhand
2. The Appropriate Committee presided over by the Joint Chief Election Officer cum Joint Secretary, Cabinet (Election) Department, Government of Jharkhand, P.O. and P.S.-Dhurwa, District-Ranchi, Jharkhand.
3. The Principal Secretary, Home Department, Government of Jharkhand, Project Bhawan, P.O. and P.S.-Dhurwa, District-Ranchi, Jharkhand
4. The Principal Secretary cum Chief Election Officer, Cabinet (Election) Department, Government of Jharkhand, Sector-II, P.O. and P.S.-Dhurwa, District-Ranchi, Jharkhand
5. The District Election Officer cum the Deputy Commissioner, P.O. and P.S.- Chaibasa, District- West Singhbhum, Jharkhand.
6. The Joint Secretary to the Government of Home, Prison and Disaster Management, Project Bhawan, P.O. and P.S.-Dhurwa, District-Ranchi, Jharkhand

... Respondents/Appellants

Versus

1. Meera Jha, W/o Late Udyanand Jha, R/o Nayatola Dhudhaila (Mirzapur), P.O. and P.S.-Nath Nagar, District-Bhagalpur, Bihar-812006.

... Writ Petitioner/Respondent

2. The Election Commissioner of India through its Principal Secretary, Nirwachan Sadan, Ashoka Road, PO & PS- Ashoka Road, New Delhi-110001.
3. The State of Bihar through its Chief Secretary, New Secretariat, Bailey Road, Bihar, P.O. and P.S.- Sachivalaya, District – Patna, Bihar.

... Respondents/Respondents

CORAM: **HON'BLE THE CHIEF JUSTICE**
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellants: Mr. Aditya Kumar, A.C. to Sr. S.C.-I

Reserved on: 29.04.2025**Pronounced on: 5/06/2025****Per M.S. Ramachandra Rao, C.J.**

1. This application is filed under Section 5 of the Limitation Act, 1963 by the applicants to condone the delay of 306 days in filing the Letters

Patent Appeal challenging the judgment dt. 04.01.2023 of the learned Single Judge in W.P. (S) No. 6043 of 2019.

2. In the application seeking condonation of delay, it is stated that after coming to know about the said judgment, the file was put up before the applicants in the Department of Election Office (Cabinet), Election Department for taking further steps; the file was then forwarded to the concerned District of the Election Department; and on 24.05.2023, a letter was received from the office of the Home, Jail and Disaster Management Department regarding filing of LPA against the impugned judgment.

3. Opinion of the Advocate was thereafter sought and he gave his opinion for filing a Letters Patent Appeal against the impugned judgment. On 14.06.2023, the Section Officer forwarded the file to the Deputy Election Officer; the latter forwarded it to the District Election Officer with a noting that LPA may be filed through the concerned Law Officer; on 01.08.2023, the Section Officer forwarded the file to the Deputy Election Officer with a note indicating that the previous Deputy Election Officer, who was assigned to file the LPA had retired on 30.06.2023 resulting in failure to file the LPA; and it was requested that a Deputy Election Officer be appointed to file the Letters Patent Appeal.

4. Subsequently, on 17.10.2023, the Section Officer forwarded the file to the Deputy Election Officer along with a note suggesting that a request may be made to the Advocate General for nomination of a Government Advocate to file the LPA; file was then forwarded to the office of the Senior Standing Counsel-I, Jharkhand High Court, for preparing Letters Patent Appeal; the appeal was then drafted and returned to the Department; and the appeal then came to be filed on 06.12.2023.

5. The limitation for filing a Letters Patent Appeal against the judgment of a learned Single Judge in a writ petition is admittedly only 30 days from the date of the said judgment. It was therefore incumbent on the part of the applicants to act with diligence and ensure that LPA is filed within a period of limitation or with the shortest possible delay. The applicants have adopted a very casual approach and the file was simply moved from table to table as if there is no limitation for taking steps to file a Letters Patent Appeal against the judgment of the learned Single Judge and they can file the LPA whenever they choose.

6. The Supreme Court has deprecated the practice of Government Departments in moving the file from table to table and inordinately delaying filing appeals against the impugned judgments.

7. In **Postmaster General and others v. Living Media India Limited and another¹**, the Supreme Court held:

“25. We have already extracted the reasons as mentioned in the “better affidavit” sworn by Mr Aparajeet Pattanayak, SSRM, Air Mail Sorting Division, New Delhi. It is relevant to note that in the said affidavit, the Department has itself mentioned and is aware of the date of the judgment of the Division Bench of the High Court in Office of the Chief Postmaster v. Living Media India Ltd. as 11-9-2009. Even according to the deponent, their counsel had applied for the certified copy of the said judgment only on 8-1-2010 and the same was received by the Department on the very same day. There is no explanation for not applying for the certified copy of the impugned judgment on 11-9-2009 or at least within a reasonable time. The fact remains that the certified copy was applied for only on 8- 1-2010 i.e. after a period of nearly four months.

26. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person-incharge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit

¹ (2012) 3 SCC 563

which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.

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."

(Emphasis supplied)

8. The said judgment has been followed by the Supreme Court in several cases such as **Commissioner of Customs Chennai v. M/s Volex Interconnect (India) Pvt. Ltd.**², **Pr. Commissioner Central Excise Delhi-1 v. Design Dialogues India Pvt. Ltd.**³, **Union of India v. Central Tibetan Schools Administration & Others**⁴, **Union of India & Others**

² (2022) 3 SCC 159

³ (2022) 2 SCC 327

⁴ (2021) 11 SCC 557

v. **Vishnu Aroma Pouching Private Limited and another⁵**, and **State of Uttar Pradesh & Others v. Sabha Narain & others⁶**.

9. In **Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir⁷**, the Supreme Court held that it is not permissible to look into the merits of the matter as long as it is not convinced that sufficient cause has been made out for condonation of long and inordinate delay; that it hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning gross delay of more than 12 years; length of delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not; from the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation; once it is held that a party has lost his right to have the matter considered on merits because of his long inaction, it cannot be presumed to be non-deliberate delay and in such circumstances, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. It was reiterated while considering plea for condonation of delay, Court must not start with the merits of the main case and the Court owes a duty to first ascertain the *bona fides* of the explanation offered by the party seeking condonation. It declared that delay should not be excused as a matter of generosity.

10. This was also reiterated in **State of Madhya Pradesh v. Ramkumar Choudhary⁸**.

⁵ (2022) 9 SCC 263

⁶ (2022) 9 SCC 266

⁷ 2024 INSC 262 : 2024 SCC OnLine SC 489

⁸ Special Leave Petition (C) Diary No. 48636 of 2024 dt.29.11.2024

11. Having regard to the facts and circumstances of the case and the above decisions of the Supreme Court, we are satisfied that sufficient cause has not been shown by the applicants for condonation of delay of 306 days in filing the instant Letters Patent Appeal.

12. Accordingly, the application for condonation of delay (I.A. No.5088 of 2025) is dismissed. Consequently, the Letters Patent Appeal is also dismissed.

13. All pending applications shall stand closed.

(M.S. Ramachandra Rao, C.J.)

(Rajesh Shankar, J.)

Manoj/-