

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 45 of 2025

1. The State of Jharkhand;
2. Secretary, Road Construction Department, Government of Jharkhand, Mantralaya, Project Bhawan, P.O. & P.S. Dhurwa, District Ranchi – 834004 (Jharkhand);
3. Joint Secretary, Road Construction Department, Government of Jharkhand, Mantralaya, Project Bhawan, P.O. & P.S. Dhurwa, District Ranchi – 834004 (Jharkhand); Appellants

Versus

1. M/s Jharkhand Road Projects Implementation Company Limited (acting through its Director, Shri Bijay Kant Jha Vijay), a company incorporated under the erstwhile Companies Act, 1956, having its registered office situated 443/A, Road No. 5, Ashok Nagar, P.O. Ashok Nagar, P.S. Argora, District Ranchi – 834002 (Jharkhand), through its director Bijay Kant Jha Vijay, S/o-Late Sadanand Jha, aged about 49 years, resident of Flat No. 804, Ekalavya Tower, Argora Kathal More Road, Ranchi.
2. M/s Jharkhand Accelerated Road Development Company Limited (acting through its managing Director), a company incorporated under the erstwhile Companies Act, 1956, and having its registered office situated 443/A, Road No. 5, Ashok Nagar, P.O. Ashok Nagar & P.S. Argora, District Ranchi – 834002 (Jharkhand); ... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Appellants : Mr. Ashok Kr. Yadav, Sr.S.C.I.

C.A.V. On: 19.03.2025 **Pronounced On: 25.04.2025**

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

I.A. No. 13308 of 2025 in/and L.P.A. No. 45 of 2025

This application is filed under Section 5 of the Limitation Act, 1963 to condone delay of 214 days in filing the Appeal challenging the judgment dt. 09.04.2024 of the learned Single Judge in W.P. (C) No.719 of 2018.

2. In the application filed seeking condonation of delay, it is stated that the impugned judgment was pronounced on 09.04.2024 and after coming to know of the same, the file was put up before the official

of the applicants, Road Construction Department of the Government of Jharkhand for taking further steps in the matter.

3. It is also stated that through a memo dt. 12.06.2024, the Assistant Registrar of the High Court of Jharkhand had sent a letter to the applicants regarding the final outcome of the writ petition and that a caveat was also filed by the respondent on 22.06.2024 before this Court.

4. It is stated that on 16.07.2024, the applicants forwarded the file to the concerned authorities with a noting that opinion of Law Department may be obtained; and that on 19.07.2024, the Secretary, (Management Cell) opined that a Letters Patent Appeal is to be filed in this Court and the opinion of the Law Department is necessary.

5. It is stated that on 22nd July, 2024, the Additional Secretary endorsed the file to the Principal Secretary with a noting that the file may be endorsed to the Law Department for his opinion regarding filing of the Appeal.

6. Thereafter, on 25.07.2024, the Principal Secretary endorsed the file to the Law Department, that the Principal Secretary, Law on 26.07.2024 endorsed the file to the office of the Advocate General and on 08.08.2024, Advocate General opined that a Letters Patent Appeal be preferred.

7. It is stated that after the opinion was given by the Advocate General, file was endorsed to the Executive Engineer, Road Construction, Ramgarh, on 21.08.2024 for taking up further action; draft of the Letters Patent Appeal with file was put up before the

concerned authority on 21.08.2024 for further approval; on 23.08.2024, the file was endorsed to the Chief Engineer for further action of filing the Letters Patent Appeal; on 05.11.2024, statement of facts was sent before the concerned authority for filing the Letters Patent Appeal; on 06.11.2024, file was put up before the concerned authority for approval on the statement of facts and further to authorize the Executive Engineer for filing the LPA.

8. According to the applicants, the file was forwarded to the concerned authority on 11.11.2024 with a noting that the approval of the Principal Secretary to be obtained. It was then put up before the Principal Secretary for approval on 11.11.2024 and after such approval was granted, the appeal was filed on 09.12.2024.

9. It is stated that the delay in filing the appeal was not intentional or deliberate but was caused due to circumstances beyond the control of the applicants.

10. Mr. Ashok Kumar Yadav, learned Sr.S.C. I appearing for the applicants has also cited the following judgments:-

1. State (NCT of Delhi) v. Ahmed Jaan¹

2. Ram Nath Sao Alias Ram Nath Sahu and Others v. Gobardhan Sao and Ors²

3. State of M. P. and another v. Pradeep Kumar and another³

4. N. Balakrishnan v. M. Krishnamurthy⁴

¹ (2008) 14 SCC 582

² (2002) 3 SCC 195

³ (2000) 7 SCC 372

⁴ (1998) 7 SCC 123

*5. State of U.P. and others v. Harish Chandra and others*⁵

*6. State of Haryana v. Chandra Mani and others*⁶

*7. G. Ramegowda, Major and others v. Special Land Acquisition Officer, Bangalore*⁷

*8. Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and Others*⁸

11. He vehemently contended that the matter relates to a huge sum of Rs.106 crores to be paid to the respondents, that there is merit in the case of the applicants and therefore, the delay in filing the LPA ought to be overlooked and it should be condoned.

12. It is seen from the facts narrated in the application seeking condonation of delay that though the judgment of the learned Single Judge was pronounced on 9th April, 2024 in W.P. (C) No.719 of 2018, the appeal was filed only on 09.12.2024.

13. During the intervening period, the applicants were sending the file from one officer to another though they were fully aware that the time for filing the Letters Patent Appeal against the judgment of the learned Single Judge is only 30 days.

14. In this era of instantaneous communication, it is unbelievable that this archaic method of sending the file from table to table is still being followed in the State of Jharkhand.

⁵ (1996) 9 SCC 309

⁶ (1996) 3 SCC 132

⁷ (1988) 2 SCC 142

⁸ (1987) 2 SCC 107

15. We are surprised that the appeal was filed initially by the applicants beyond the period of limitation without even filing an application for condonation of delay, though the law officers of the Government would be fully aware that such an application is warranted, if the appeal is not filed within time.

16. Also the reading of the application for condonation of delay indicates that at every stage, the respondents had not taken steps to file the appeal with the requisite expedition though they are fully aware that the time for filing an appeal is only 30 days. The practice of the file being moved from table to table and from officer to officer has been criticised by the Supreme Court in several decisions.

17. In *Postmaster General and others Vs. Living Media India Limited and another*⁹, 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.

⁹ (2012) 3 SCC 563

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

18. These observations equally apply to the instant case where the applicants have acted in a similar manner as in the said case.

19. The said judgment has been followed by the Supreme Court in several cases such as *Commissioner of Customs Chennai vs. M/s Volex Interconnect (India) Pvt. Ltd.*¹⁰, *Pr. Commissioner Central Excise Delhi-1 vs. Design Dialogues India Pvt. Ltd.*¹¹, *Union of India vs. Central Tibetan Schools Administration & Others*¹², *Union of India & Others vs. Vishnu Aroma Pouching Private Limited and another*¹³, and *State of Uttar Pradesh & Others vs. Sabha Narain & others*¹⁴.

20. In *Union of India & Anr. Vs. Jahangir Byramji Jeejeebhoy (D) through his LR*¹⁵, the Supreme Court held that it could not 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

¹⁰ (2022) 3 SCC 159

¹¹ (2022) 2 SCC 327

¹² (2021) 11 SCC 557

¹³ (2022) 9 SCC 263

¹⁴ (2022) 9 SCC 266

¹⁵ 2024 INSC 262: 2024 SCC OnLine SC 489

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.

21. By allowing multiple people to deal with the question as to whether or not the judgment of the learned Single Judge is to be challenged, and without speeding up the process within the Department, it is not open to the applicants to file the appeal with inordinate delay and seek condonation of the same.

22. 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 214 days in filing the appeal.

23. We may also point out that even the application for issuance of certified copy of the judgment pronounced by the learned Single Judge on 09.04.2024 was made on 26.11.2024 as can be seen from the certified copy of the impugned judgment filed along with the appeal. There is no explanation offered for this.

24. As regards the plea of the applicants that they had a very good case on merits, we may point out that before the learned Single Judge in paragraph 4, the applicants(who were respondents in the writ petition) did not dispute the claim of the respondents/Writ petitioners as regards the payment to the latter of Rs.1,06,47,75,028/- and so the learned

Single Judge directed payment of the same to the respondents within eight weeks and also directed the applicants to consider payment of interest in accordance with law by a speaking order.

25. The plea of the applicants that they had an excellent case on merits therefore is a false plea, since they had conceded before the learned Single Judge that they had owed the money to the respondents.

26. As regards the judgments cited by the learned counsel for the applicants is concerned, in the judgment rendered by the Supreme Court in *Post Master General* cited (9 Supra), the judgments cited at serial nos. 5 to 8 in para 10 supra by the applicants were considered; and notwithstanding the same, the Supreme Court held that Departments of the Government cannot take advantage of various earlier decisions, where a liberal interpretation was done by the Supreme Court. The Supreme Court even clarified in *PostMaster General* (9 Supra) also that if there is no gross negligence or deliberate inaction or lack of bona fides, sometimes a liberal view can also be taken to advance substantial justice but in the instant case, there has been gross negligence/deliberate inaction on the part of the applicants.

27. Therefore, I.A. No. 13308 of 2024 is dismissed. Consequently, the Letters Patent Appeal is also dismissed.

28. Pending Interlocutory Application(s), if any, shall also stand disposed of.

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

(Deepak Roshan, J.)