# THE HIGH COURT OF ORISSA: CUTTACK

**NO. OHC-RULES-SCM-0015-2025/16739(30) Date.17.10.2025**

From:

**Asanta Kumar Das,**
**Registrar General**

To,

**The District & Sessions Judge,.....(All)**

Sub: **Forwarding the Judgment dated 12.09.2025 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 11794 of 2025 (Shivamma (dead) by LRS vrs. Karnataka Housing Board & Ors.)**

Sir/Madam,

With reference to the subject cited above, I am directed to forward herewith a copy of the Judgment dated 12.09.2025 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 11794 of 2025 (Shivamma (dead) by LRS vrs. Karnataka Housing Board & Ors.) regarding condonation of delay in appeal u/s.-5 of the Limitation Act, 1963, which requires a sufficient cause and advising to remain extra cautious when the party seeking condonation of delay is a State authority.

You are therefore requested to communicate the same to all Judicial Officers working within your jurisdiction for their information and guidance.

Yours faithfully,

ASANTA KUMAR DAS
Digitally signed by ASANTA KUMAR DAS
Date: 2025.10.16 18:11:10 +05'30'

**REGISTRAR GENERAL**

***Encl.***- *As above.*

***Through e-mail***

# OFFICE OF THE DISTRICT JUDGE, GANJAM, BERHAMPUR.

***e-mail: dsj.ganjam-od@indiancourts.nic.in***

***Memo No.*** 13182 (CS) ***/ dtd.*** 23/10/2025

***Copy along with its enclosures is forwarded to: -***

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3. The Spl. Judge (Vig.), Berhampur
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5. The Ad-hoc Additional District Judge, (FTSC) under POCSO Act, Berhampur
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23. The Executive Assistant, District Court, Ganjam, Berhampur
24. The Court Manager, District Court, Ganjam, Berhampur
25. The Peshkar, District Court, Ganjam, Berhampur

    for information and guidance.
26. The System Officer, District Court, Ganjam, Berhampur for information with a direction to upload the same on the Official Website of Ganjam Judgeship for general information.
27. Guard file.

***Registrar,***
***Civil Courts, Berhampur.***
23/10/2025

2025 INSC 1104

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 11794 OF 2025**

**(Arising out of Special Leave Petition (C) No. 10704 of 2019)**

**SHIVAMMA (DEAD) BY LRS** **...APPELLANT(S)**

**VERSUS**

**KARNATAKA HOUSING BOARD & ORS.** **...RESPONDENT(S)**

**J U D G M E N T**

Signature Not Verified
Digitally signed by VISHAL ANAND
Date: 2025.09.12 16:31:07 IST
Reason:

**J.B. PARDIWALA, J.:**

For the convenience of exposition, this judgment is divided in the following parts: -

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**1.** Leave granted.

**2.** This appeal arises from the judgment and order passed by the High Court of Karnataka at Kalaburagi dated 21.03.2017 in I.A. No. 1 of 2017 filed in the Regular Second Appeal No. 200059 of 2017 (hereinafter the "**Impugned Order**"), by which the High Court condoned the delay of 3966 days in preferring the second appeal against the judgment and order passed by the First Appellate Court in Regular Appeal No. 405 of 2004 arising from the judgment and decree passed by the Trial Court in Original Suit No. 1100 of 1989.

## I. BRIEF FACTUAL MATRIX

**3.** The facts giving rise to this appeal may be summarized as under: -

**a.** It appears from the materials on record that a parcel of land bearing Survey No. 56/A, admeasuring 9 acres 13 guntas was originally owned and possessed by the father of the appellant herein.

**b.** After the demise of the appellant's father, some disputes arose between *inter-alia* between the legal heirs of the original owner including the appellant herein and one Sri Gurulingappa C. Patil, which led to the institution of the partition suit being O.S. No. 74 of 1971.

**c.** During the pendency of the aforesaid suit, Sri Gurulingappa C. Patil purportedly "donated" 4 acres out of the aforesaid land which was the subject matter of the suit (hereinafter the "**land in question**") to the Government of Karnataka.

**d.** Pursuant to the aforesaid, the respondent housing corporation sometime in the year 1979 took over the possession of the land in question for the purpose of establishing a housing colony.

**e.** On 03.04.1989, a compromise decree was passed in the aforesaid partition suit by which the appellant herein became the absolute owner of the parcel of land bearing Survey No. 56/A including the 4 acres of land in question.

**f.** However, since the possession of the land in question was not reverted to the appellant herein, one another suit being O.S. No. 1100 of 1989 was instituted, this time against the respondent housing corporation, praying for the relief of declaration of title and possession of the land in question.

**g.** The said suit came to be dismissed by the Trial Court *vide* order dated 17.04.1997.

**h.** Aggrieved by the same, the appellant preferred the Regular Appeal No. 405 of 2004 (hereinafter the "**first appeal**") before the 3rd Addl. District Judge, Gulbargam (hereinafter the "**First Appellate Court**").

**i.** The First Appellate Court *vide* its judgment and order dated 03.01.2006 allowed the appeal and accordingly decreed the suit in favor of the appellant, granting the declaration as prayed for in the suit. However, the

First Appellate Court declined to grant the relief of possession in view of the fact that substantial construction had already been undertaken on the land in question by the respondent housing corporation, and thus, instead directed the grant of compensation to the appellant herein.

**j.** Since no action was taken by the respondent no. 1 in accordance with the decree drawn by the First Appellate Court, the appellant herein initiated execution proceedings on 20.01.2011.

**k.** Remarkably, it was only on 14.02.2017, that the respondent no. 1 realized the seriousness of the situation and accordingly a second appeal came to be filed by it before the High Court along with an application for condonation of delay of 3966 days against the judgment and decree passed by the First Appellate Court *vide* its order dated 03.01.2006.

**l.** The High Court *vide* its impugned judgment and order dated 21.03.2017, allowed the aforesaid application under Section 5 of the Limitation Act, 1963 (for short, the "**Limitation Act**") read with Section 151 of the Code of Civil Procedure, 1908 (for short, the "**CPC**") by the respondent no. 1 herein, and thereby condoned the delay.

**4.** In such circumstances referred to above, the appellant is here before this Court with the present appeal.

## II. SUBMISSIONS OF THE PARTIES.

### A. Submissions on behalf of the appellant.

**5.** Mr. Akshat Shirvastava, the learned Counsel appearing for the appellants in his written submissions has stated thus: -

> "***PREPOSTION / SUBMISSIONS ON BEHALF OF THE PETITIONER***
>
> *A. That it is most respectfully submitted that the respondent no. l failed to demonstrate any sufficient cause and there is no explanation as to why the regular second appeal could not have been filed by the respondent no. l within the prescribed period of limitation.*
>
> *B. That it is most respectfully submitted that from the perusal of the application filed by the respondent no. 1, the last entry in the file of Karnataka Housing Board dates back to 20.03.2008 and that there is no subsequent entry with regard to the movement of files.*
>
> *C. That it is most respectfully submitted that the respondent no. 1 admits that due to the negligence of its officers the appeal could not have been filed within the prescribed period of limitation that there has been a pedantic approach on the part of the officials of the Housing Board and despite service of notice in the execution proceedings way back on 20.04.2011, no explanation is forthcoming as to what steps had been taken by the Board immediately thereafter in filing the appeal before the Hon'ble High Court.*
>
> *D. That it is most respectfully submitted that this Hon'ble Court in a plethora of judgments has explained the expression "sufficient cause" u/s. 5 of the Limitation Act, 1963 in Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai, (2012) 5 SCC 157 in Para 24 & 25*

*"24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.*

*25. In cases involving the State and its agencies/instrumentalities, the court can take note of the fact that sufficient time is taken in the decision-making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and/or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting he plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest."*

*E. Case laws relied by the Petitioner: -*

1. *Maniben Devraj Shah v. Municipal Corpn. ofBrihan Mumbai, (2012) SCC 157*
2. *Brijesh Kumar v. State of Haryana, (2014) 11 SCC 351*
3. *Sheo Raj Singh v. Union of India, (2023) 10 SCC 531"*

**6.** In such circumstances referred to above, it was prayed on behalf of the appellant that there being merit in his appeal, the same may be allowed.

**B. <u>Submissions on behalf of the respondent State</u>.**

**7.** Ms. Kiran Suri, the learned Senior Counsel appearing for the respondents in her written submissions has stated thus: -

"***<u>SUBMISSIONS</u>***

*I) The first submission is that Section 5 of the Llmitation Act provides for condonation of delay if "sufficient cause" is shown for "such period". While interpreting the word "such period" under Limitation Act, there is some conflict as to for which period sufficient cause is required to be shown.*

*a) The following judgments provide that the word "such period" would mean the explanation of delay from the last day prescribed for filing of an appeal till the date on which appeal is filed:-*

*i) AIR 1962 SC 361 (Ramlal, Motilal and Chhotelal v. Rewa Coalfields Ltd). Para 8*

*ii) 1996 (3) sec 132 (State of Haryana v. Chandra Mani and Ors). Para 3*

*b) The following judgments provide· that explanation of delay has to be shown for the period of limitation means if period of limitation is 90 days, then explanation as to why the petitioner was unable to institute the proceedings within 90 days and the events occurred after 91 st day till the last day is of no consequence.*

*iii) 2024 SCC online SC 3612:(State of Madhya Pradesh v. Ramkumar Choudhary) Para 7*

*iv) 1981 (1) SCC 495 (Ajit Singh Thakur Singh AndAnr. v. State of Gujarat) Para 6*

*II) That Second submission is that when the Hon'ble High Court has exercised its discretionary powers and condoned the delay holding that there is sufficient cause shown by the respondent No. 1 herein, Law is well settled that "a court of appeal should not ordinarily interfere with the discretion exercised by the courts below." It is further submitted that "an appellate Court interferes not when the*

*order appealed is not right but only when it is clearly wrong."*

*i) 2023 (10) SCC 531 (Sheo Raj Singh(D) Tr. Lrs v. Union Of India). Para 33*

*ii) 2003 (10) SCC 390 (Manjunath Anandappa Urf. v. Tammanasa& Ors.) para 36 and 37*

*iii) 1980 (2) SCC 593 (Gujarat Steel Tubes Ltd v. Gujarat Steel Tubes Mazdoor Sabha) Para 73*

*In the present case, the Hon'ble High Court has exercised its discretionary power after considering the sufficient cause and the same cannot be said to be clearly wrong so as to require interference.*

*III) That third submission is that in case there have been deliberate lapses on the part of the public officials and public servants to defeat justice by causing delay, delay, however huge may be, should be condoned and the latter be decided on merits.*

*i) 2015 (3) SCC 569 (Executive Officer, Antiyur Town Panchayat v. G. Arumugam (D) By Lrs.) para 3 and 4*

*IV) That fourth submission is when substantial justice and technical considerations are pitted against each other, the former would_ prevail specially when public interest is involved. It is submitted that it is not the length of delay but sufficiency of cause, which is relevant.*

*i) 1987 (2) SCC 107 (Collector Land Acquisition, Anantnag &Anr. v. Mst. Katiji& Ors). para 3*

*ii) 2005 (3) SCC 752 (State of Nagaland v. Lipok Ao & Ors.) Para 8 & 9*

*iii) 2013 (12) SCC 649 (Esha Bhattaharyajeev. Raghunathpur Nafar Academy) Para 21*

*iv) 2019 (10) SCC 408 (The State of Manipur v. Koting Lamkang) Para 10*

*V) The fifth submission is that the Government cannot carry on business upon principle of distrust and men in responsible position are to be trusted. The deliberate inaction on the part of the officials and mala fide of the*

*officers, cannot be imputed to the government or Government undertakings.*

*i) 1988 (2) SCC 142 (G. Ramegowda, Major and others v. Special Land Acquisition Officer, Bangalore) Para l5 to 17*

*VI) The sixth submission is that the discretion by the Hon'ble High Court is exercised in 2017 and judgments in "(2020) (10) SCC 654) (State of MP v. Beru Lal &(2020 (13) SCC 745 (University of Delhi v. Union of India & Ors." are subsequent. Therefore, the exercise of power is to be seen from the point of view of the cases of Katiji, Rameguda, Chandra Mani cases etc.*

*i) 2023 (10) SCC 531 (Sheo Raj Singh (D) by Lrs) v. Union of India &Anr.) Para 34*

*VII) The seventh submission is that if inordinate delay has occurred and it has not resulted in the litigant being benefitted by such delay, such belated approach must be construed by adopting justice oriented approach. In the present case, there had been negligence on the part of the officials, who were supposed to protect the interest of KHB and action has been taken against those officers by suspending them and initiating disciplinary proceedings.*

*VIII) That KHB has taken decision to file an appeal in the year 2006 itself and had appointed litigation conducting officer to engage advocate. KHB had again appointed litigation conducting officer in 2011 to engage advocate and appear in Execution petition. There was no reason for the KHB to dis rust its officer. It is only in 2017 when a letter was received from Deputy Commissioner to the Commissioner, KHB that the commissioner came to know about their non-representation and non filing of the appeal. Immediate action is taken thereafter.*

*IX) It is submitted that Sh. AD. Inamdar was authorised by the Commissioner to act as litigation conducting officer for filing appeal and also to appear in EP on 02.04.2011. SLAO sent letter dated 06.04.2011 to said AD Inamdar to engage counsel and take appropriate action. The said Inamdar appointed AEE as special officer. Even though the Executive Engineer was authorized to engage the*

*Advocate and contact the Advocate regularly, order sheet of Execution Petition reveals that neither the Executive Engineer nor the Assistant Executive Engineer have engaged Advocate in Execution Petition. KHB came to know the issue -of warrant of attachment of their movables from Deputy Commissioner only on 28.01.2017. Both the officers were suspended.*

*X) It is submitted that neither the land is purchased nor acquired by the KHB nor any allotment is made by KHB. The petitioner filed a suit for possession. The lower appellant court moulded the relief and directed payment of compensation. The payment of compensation without acquisition of land by Respondent-1 is against public interest and it also involves huge public money. Respondent-1 cannot be directed to pay compensation when they have not acquired the land. The persons in possession are illegal occupants and the KHB has nothing to do with that land or its occupants. It is relevant to note that petitioners filed WP No. 82306/2011 praying for mandamus direction R-1 and R-2 to acquire the land, which was withdrawn on 19.07.2011.*

*XI) KHB has no objection if decree is passed for possession against the persons in possession and not against the KHB. It is also relevant to Note that the petitioner has not made the persons in possession as party to the proceedings. The delay of 3966 days will not clothe the petitioner with any right in law when the petitioner is not entitled for any relief against Defendant-I and Defendant-2."*

**8.** In such circumstances referred to above, it was prayed on behalf of the respondent that there being no merit in the present appeal, the same may be dismissed.

## III. ISSUE FOR DETERMINATION

**9.** Having heard the learned counsel appearing for the parties and having gone through the materials on record, the following questions fall for our consideration: -

I) What is the meaning and import of the expression "*within such period*" used in Section 5 of the Limitation Act?

II) When can the exercise of discretion in condoning the delay by a lower court be interfered with by a court in appeal?

III) Whether the High Court in the present case at hand was justified in condoning the delay?

## IV. ANALYSIS

### A. Section 5 of the Limitation Act.

**10.** Section 5 of the Limitation Act, reads 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."*

**11.** Section 5 of the Limitation Act, which corresponds to the erstwhile Section 5 of the now-repealed Limitation Act, 1908, confers upon the courts the discretionary power to admit any appeal or application (except that under Order XXI of the Code of Civil Procedure, 1908) if filed after the expiry of the prescribed period of limitation, provided the erring party is able to show to the court a sufficient cause for not filing the same within the stipulated period of limitation, and the court is satisfied with sufficiency of such cause. It is only in cases, where such "*sufficient cause*" for the resultant delay in filing / presenting of the appeal or application is shown by the defaulting party, and the courts are satisfied with the explanation and sufficiency of such cause that the recourse to Section 5 of the Limitation Act may be taken by the courts, and in exercise of its discretion the delay be condoned and thereby admit the appeal or application.

**i. Meaning and Scope of the expression "Within Such Period" used in Section 5 of the Limitation Act.**

**12.** Ms. Suri, the learned Senior Counsel appearing for the respondents herein vociferously contended that although it is a well settled position of law that for the purpose of seeking condonation of delay by recourse to Section 5 of the Limitation Act, the delay in the filing of an appeal or application beyond the stipulated period of limitation has to be explained by demonstrating the

existence of a "sufficient cause" yet there appears to be a divergence of opinion as to the precise period for which the "sufficient cause" must be demonstrated for seeking condonation.

**13.** It was submitted that, there is a cleavage of opinion expressed as regards the meaning of the expression "*within such period*" occurring in Section 5 of the Limitation Act, wherein the expression has been understood to mean the period commencing from the last date on which the appeal or application, as the case may could have been filed i.e., the last day on which the period of limitation would have expired, up to the actual date on which such appeal or application is ultimately filed. In other words, the delay that has to be explained is only for the interregnum period between the expiry of limitation and the actual date of filing, and the court concerned should be satisfied about the existence of a sufficient cause resulting in such delay for this period alone. In this regard, reliance was placed on the decisions of this Court in ***Ramlal, Motilal & Chhotelal v. Rewa Coalfields Ltd.*** reported in **AIR 1962 SC 361** and ***State of Haryana v. Chandra Mani & Ors.*** reported in **(1996) 3 SCC 132**, respectively.

**14.** Whereas on the other hand, the same expression has been construed to mean that "sufficient cause" must be shown to have existed not merely during the period of delay post the expiry of limitation, but rather throughout the entire

statutory period of limitation itself till the date of actual filing. According to this line of authority, "*within such period*" for the purpose of Section 5 of the Limitation Act, means the entire duration from the date when the cause of action accrued or the clock of limitation began to tick, until the date of actual filing. To put it simply, if the party seeking condonation of delay has no good explanation to offer for demonstrating the existence of a "sufficient cause" during the period of limitation, which inhibited the timely filing of the appeal or application, then even if there existed a "sufficient cause" after the expiry of the limitation that contributed to the delay, the same would be inconsequential insofar as Section 5 of the Limitation Act is concerned. In this regard, reliance was placed on the decisions of ***Ajit Singh Thakur & Anr. v. State of Gujrat*** reported in **(1981) 1 SCC 495** and ***State of Madhya Pradesh v. Ramkumar Choudhary*** reported in **2024 SCC OnLine SC 3612**, respectively.

**a. Contradictory Views on the subject.**

**15.** The expression "*within such period*" occurring in Section 5 of the Limitation Act, first fell for the consideration of this Court in ***Rewa Coalfields*** (supra). This Court speaking through P.B. Gajendragadkar J. (as his Lordship, then was) held that the aforesaid expression means that existence of a sufficient cause for the delay in filing the appeal or application, as the case may be, has to be shown for the period from the last day of the limitation prescribed till

the date of the actual filing of the appeal or application, as the case may be. In other words, if the period of limitation is, say, 90-days, delay has to be explained only for the 90th day till the day of actual filing of the appeal or application, as the case may be. The said decision is in three parts: -

**(i)** **First,** it held that in the context of Section 5 of the Limitation Act, the expression "*within such period*" used therein, means the period from the last day of the limitation that has been prescribed till the day on which the appeal or application is filed. Thus, it held that for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, the party has to assign sufficient cause for why he was unable to file an appeal for the entire period covered from the last day of the limitation prescribed till the day on which such appeal or application came to be filed. The relevant observations read as under: -

> "*8. [...] The context seems to suggest that "within such period" means within the period which ends with the last day of limitation prescribed. In other words, in all cases falling under Section 5 what the party has to show is why he did not file an appeal on the last day of limitation prescribed. That may inevitably mean that the party will have to show sufficient cause not only for not filing the appeal on the last day but to explain the delay made thereafter day by day. In other words, in showing sufficient cause for condoning the delay the party may be called upon to explain for the whole of the delay covered by the period between the last day prescribed for filing the appeal and the day on which the appeal is filed. [...]*"
>
> (Emphasis supplied)

**(ii)** **Secondly,** although, this Court acknowledged that the context in which the aforesaid expression has been employed, seems to suggest that it only means "*within the period which ends with the last day of limitation prescribed*" yet, it was reluctant to adopt the aforesaid interpretation, as it would be too unreasonable to expect or require a party to take necessary action on the very first day after the cause of action accrues. It observed if such an interpretation is adopted the same would result in the expression "*within such period*" being construed as "*during such period*", an understanding which is repugnant to both the bare text as-well as the context of Section 5 of the Limitation Act. The relevant observations read as under: -

> "*8. Now, what do the words "within such period" denote? It is possible that the expression "within such period" may sometimes mean during such period. But the question is : Does the context in which the expression occurs in Section 5 justify the said interpretation? [...] The context seems to suggest that "within such period" means within the period which ends with the last day of limitation prescribed. [...] To hold that the expression "within such period" means during such period would, in our opinion, be repugnant in the context. [...]*"
>
> (Emphasis supplied)

**(iii)** **Thirdly,** it observed that since a party is entitled to take its time and file the appeal or application, as the case may be, on any day, during the prescribed period of limitation, it would be unreasonable, where there has been any delay in preferring such appeal or application, to

then call upon the party to explain its conduct during the whole of the said period. Accordingly, it rejected the contention that for the purpose of Section 5 of the Limitation Act, the delay in filing of the appeal or application, as the case may be, has to be explained for the entire period of the limitation prescribed. The relevant observations read as under: -

> 8. *[...] If the Limitation Act or any other appropriate statute prescribes different periods of limitation either for appeals or applications to which Section 5 applies that normally means that liberty is given to the party intending to make the appeal or to file an application to act within the period prescribed in that behalf. It would not be reasonable to require a party to take the necessary action on the very first day after the cause of action accrues. In view of the period of limitation prescribed the party would be entitled to take its time and to file the appeal on any day during the said period; and so prima facie it appears unreasonable that when delay has been made by the party in filing the appeal it should be called upon to explain its conduct during the whole of the period of limitation prescribed.* [...]
>
> (Emphasis supplied)

**(iv)** **Lastly,** it held that the thumb rule of general consideration of the diligence of parties in pursuing their legal remedies cannot be applied for the purpose of construing the import of the expression "*within such period*" employed in Section 5 of the Limitation Act. This is because, even after sufficient cause has been shown the court still has to enquire whether it, in its discretion, should condone the delay. As such the only place where such considerations of diligence and *bona-fides* of the

party may be of relevance under Section 5 of the Limitation Act, is at the stage of deciding whether the discretionary power to condone the delay should be exercised by the court or not, after sufficient cause has been shown, to its satisfaction. However, this Court cautioned, that considerations of *bona fides* or due diligence, which unlike in Section 14 of the Limitation Act, have not been expressly made material or relevant under Section 5, ought not be applied to the same extent or manner as under Section 14, so as to invite an enquiry into the reasons for the party's inaction during the entire prescribed period of limitation. The relevant observations read as under: -

> *"8. [...] In our opinion, it would be immaterial and even irrelevant to invoke general considerations of diligence of parties in construing the words of Section 5. [...]*
>
> *xxx xxx xxx*
>
> *10. On the other hand, in Kedarnath v. Zumberlal the Judicial Commissioner at Nagpur has expressed the view that an appellant who wilfully leaves the preparation and presentation of his appeal to the last day of the period of limitation prescribed therefor is guilty of negligence and is not entitled to an extension of time if some unexpected or unforeseen contingency prevents him from filing the appeal within time. According to this decision, though the period covered between the last day of filing and the day of actual filing may be satisfactorily explained that would not be enough to condone delay because the appellant would nevertheless have to show why he waited until the last day. In coming to this conclusion the Judicial Commissioner has relied substantially on what he regarded as general considerations. "This habit of leaving things to the last moment", says the learned Judge, "has its origin in laxity and negligence; and, in*

*my opinion, having regard to the increasing pressure of business in the law Courts and the many facilities now available for the punctual filing of suits, appeals and applications therein, it is high time that litigants and their legal advisers were made to realise the dangers of the procrastination which defers the presentation of a suit, appeal or application to the last day of the limitation prescribed therefor". There can be no difference of opinion on the point that litigants should act with due diligence and care; but we are disposed to think that such general consideration can have very little relevance in construing the provisions of Section 5. The decision of the Judicial Commissioner shows that he based his conclusion more on this a priori consideration and did not address himself as he should have to the construction of the section itself. Apparently this view has been consistently followed in Nagpur.*

*12. It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the court is dealing with applications made under Section 14 of the Limitation Act. In dealing with such applications the court is called upon to consider the effect of the combined provisions of Sections 5 and 14. Therefore, in our opinion,*

*considerations which have been expressly made material and relevant by the provisions of Section 14 cannot to the same extent and in the same manner be invoked in dealing with applications which fall to be decided only under Section 5 without reference to Section 14. [...]*"

(Emphasis supplied)

**16.** The ratio laid down in ***Rewa Coal Fields*** (supra) was followed by a three-Judge Bench of this Court in ***Chandra Mani*** (supra), wherein this Court reiterated that in showing sufficient cause to condone the delay, it is not necessary to explain whole of the period between the date of the judgment till the date of filing the appeal. It is sufficient for the purpose of Section 5 of the Limitation Act to only explain the delay caused during the period between the last of the dates of limitation and the date on which the appeal/application is actually filed. The relevant observations read as under: -

"*3. Section 5 of the Limitation Act, 1963 (for short, the 'Act') extends prescribed period of limitation in filing an application or an appeal except under the provisions of Order 21 of Civil Procedure Code, 1908 (for short, the 'Code') and gives power to the court to admit the appeal or application after the prescribed period. The only condition is that the applicant/appellant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period. In Ramlal v. Rewa Coalfields Ltd. it was laid down that in showing sufficient cause to condone the delay, it is not necessary that the applicant/appellant has to explain whole of the period between the date of the judgment till the date of filing the appeal. It is sufficient that the applicant/appellant would explain the delay caused in the period between the last of the dates of limitation and the date on which the appeal/application is actually filed."*

(Emphasis supplied)

**17.** Thus, as per the decisions of this Court in ***Rewa Coal Fields*** (supra) and ***Chandra Mani*** (supra), respectively, the expression "*within such period*" used in Section 5 of the Limitation Act has been construed to mean the period commencing from the last date on which the prescribed period of limitation would have expired, and extending up to the actual date on which such appeal or application comes to be filed, and therefore, "*sufficient cause*" for the delay in such filing has to be explained only for this circumscribed interval, rather than for the whole of the period of limitation prescribed.

**18.** On the other hand, in ***Ajit Singh Thakur*** (supra) a two-Judge Bench of this Court held that "*sufficient cause*" for the delay in filing of an appeal or application, as the case may be, has to be established by some event or circumstance that had arisen before the limitation expired. It observed that, although a party is entitled to wait until the last day of the prescribed period of limitation for filing an appeal or application, as the case may be, yet when it allows the limitation to expire and then pleads sufficient cause for not filing the same earlier, such a plea or explanation must be traced to a cause arising within the period of limitation. The relevant observations read as under: -

> *"6. [...] Now, it is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before limitation expired it*

*was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. In the present case, there was no such cause, and the High Court erred in condoning the delay."*

(Emphasis supplied)

**19.** It is pertinent to mention that the decision of this Court in ***Ajit Singh Thakur*** (supra) did not refer or take into consideration, the earlier decision of this Court in ***Rewa Coal Fields*** (supra).

**20.** *Arguendo,* it could be said that the observation made in ***Ajit Singh Thakur*** (supra), more particularly, that "*the sufficient cause must establish that because of some event or circumstance arising before limitation expired it was not possible to file the appeal within time*" could not be said to be in conflict with the observations made in ***Rewa Coal Fields*** (supra) that sufficient cause has to be established from the last day of the limitation prescribed till the day on which such appeal or application came to be filed, inasmuch as, the starting point from when "sufficient cause" includes the prescribed period of limitation i.e., the period before the limitation prescribed had expired as per ***Ajit Singh Thakur*** (supra) and the last day on which the limitation would have expired as per ***Rewa Coal Fields*** (supra), as the net effect of embracing both these perspectives, is one and the same, that

"sufficient cause" is required to be established for the period within the prescribed limitation, which includes the last day on which the said period would have expired, as clarified in ***Rewa Coal Fields*** (supra), till the date of actual filing of the appeal or application, as the case may be.

**21.** However, we do not think, that when this Court in ***Ajit Singh Thakur*** (supra) said that "*no event or circumstance arising after the expiry of limitation can constitute such sufficient cause*", what it had in its mind was that the sufficient cause must establish some event or circumstance, only for the last day of the prescribed period of limitation, as held in ***Rewa Coal Fields*** (supra). This is because, nowhere has this Court in ***Ajit Singh Thakur*** (supra) made any reference to the point of origin if a "*sufficient cause*" would suffice to mean only the last day of the prescribed period of limitation. The ratio laid in ***Ajit Singh Thakur*** (supra) to our mind, must be understood as a whole, and in the context of two pertinent observations made by it; "*that a party is entitled to wait until the last day of limitation for filing an appeal*" juxtaposed with the observation "*but when it allows limitation to expire*", which can only mean one thing, that it is not sufficient to only explain the delay caused in the period between the last of the dates of limitation and the date on which the appeal/application is actually filed, and rather explanation must be offered for what the concerned party was doing for the entire period of the

prescribed limitation till the date of actual filing. We shall discuss the same in a greater detail in the latter parts of this judgment.

**22.** In ***Basawaraj & Anr. v. Special Land Acquisition Officer*** reported in **(2013) 14 SCC 81**, a two-Judge Bench of this Court held that "*sufficient cause*" as used in Section 5 of the Limitation Act, connotes that the party who failed to file the appeal or application within the prescribed limitation period, must demonstrate that such failure was not due to negligence, lack of diligence or vigilance, nor the result of indolence or inactivity, and that it was not occasioned by any lack of bona fides. The relevant observations read as under: -

> *"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The*

*court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. [...]*

*xxx* *xxx* *xxx*

*11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible*."

(Emphasis supplied)

**23.** In ***Ramkumar Choudhary*** (supra), this very Bench had the occasion to examine the meaning of the expression "within such period" used in Section 5 of the Limitation Act. Placing reliance on the decisions of this Court in ***Ajit Singh Thakur*** (supra) and ***Basawaraj*** (supra), it was held that for the purpose of Section 5, the party seeking condonation of delay has to explain why it was unable to institute the proceedings within the prescribed period of limitation. Events that occurred after the expiry of the period of limitation till the date of actual filing of the appeal or application, as the case may be, would be of no consequence insofar as condonation is concerned, if it is unable to explain what came in the way of the party that it was unable to file it. It reiterated that no event or circumstance arising after the expiry of limitation can constitute such sufficient cause, where the party allowed the limitation to expire unless it can trace such failure in allowing the limitation to expire to a cause arising within the period of limitation. The relevant observations read as under: -

*"7. There is one another aspect of the matter which we must not ignore or overlook. Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. It is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. [...]"*

(Emphasis supplied)

**24.** Thus, there appears to be a cleavage of opinion expressed as regard the meaning and interpretation of the expression "*within such period*" occurring in Section 5 of the Limitation Act.

**b. Textual Import of the expressions "after the prescribed period" and "for not preferring the appeal or making the application within such period.**

**25.** At the cost of repetition, we deem it necessary to once again quote the provision of Section 5 of the Limitation Act, for a better exposition. The same reads thus: -

> *"**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."*

**26.** The text of the provision stipulates that where an appeal or application, as the case may be, is not filed within the prescribed period of limitation, the same may be admitted if "sufficient cause" for such failure is shown. The court may, in its discretion, proceed to condone the delay, if it is satisfied, that the appellant or the applicant, as the case may be, had "sufficient cause" for not preferring the appeal or making the application, respectively, "*within such period*".

**27.** A plain yet careful reading of Section 5 of the Limitation Act, leaves very little to imagination insofar as how the import of the phrase "*within such period*" should be construed for the purpose of the said provision. The aforesaid phrase cannot be singled out and construed devoid of the context

provided by the other expressions used throughout the provision. The expression should be interpreted and understood in the precise context in which it has been employed in the bare text of the provision. The provision of Section 5, itself makes it amply clear how the phrase "*within such period*" ought to be understood by supplying the necessary context and interpretive key, through two significant phrases, namely; "*after the prescribed period*" and "*for not preferring the appeal or making the application*".

**28.** We say so because, the use of the word "*such*" in "*within such period*" signifies that it is alluding to something that the legislature has already alluded to within the provision, and thus, the significance of this phrase, has to be necessarily construed in reference to the expressions "*after the prescribed period*" and "*for not preferring ... or making ... within such period*".

**29.** The phrase "*within such period*" has been consciously prefaced by the legislature with the expression "*for not preferring the appeal or making the application*". This prefatory expression denotes that period of window within which the appeal or the application, as the case may be, was required or expected to be instituted under the law. It signifies the original period within which, the appeal or the application, should have been filed, if not for the delay. It refers to none other than that period within which, the appeal or

application, could have been instituted in the first place, had there been no delay, or, to put it simply, the statutory period of limitation, within which, such an appeal or application, should have ordinarily been filed.

**30.** The negative terminology couched in "*for not preferring ... or making*" is suggestive of the lapse or default that the appellant or applicant, as the case may be, has committed in preferring the appeal or application, respectively, which is nothing but the failure to file it within the prescribed statutory period of limitation. This is further reinforced when one considers the meaning that would have been derived, if the negative language used in the provision is stripped away, or in other words, by understanding the opposite meaning of the aforesaid phrase, which the legislature has deliberately chosen not to provide by use of the negative language "*for not*".

**31.** By removing or inverting the said negative connotation from the phrase "*for not preferring ... or making*", the expression would then inevitably have connoted that point of time at which the appeal or application, as the case may be, ought to have been instituted or the period within which, the appellant or the applicant, as the case may be, was otherwise well within its right to prefer the appeal or make the application, respectively.

**32.** The aforesaid makes it crystal clear that the legislature, by employing the phrase *"for not preferring the appeal or making the application"*, is

unmistakably alluding to the original statutory period of limitation within which the appeal or application, as the case may be, was required to be instituted or simpliciter the prescribed period of limitation, for the purpose of construing the expression "*within such period*".

**33.** However, one must be mindful that the aforesaid is not the only time period that has been mentioned in the language of Section 5 of the Limitation Act. In other words, the meaning of the expression "*within such period*" does not refer to only the original period of limitation.

**34.** One another expression of significance that, the legislature has introduced, within the text of Section 5 of the Limitation Act, is "*after the prescribed period".* This expression refers to the point of time when the appeal or application, as the case may be, in question, has come to be instituted, which is, after the statutory period of limitation expired. It denotes the period after the prescribed limitation had run out till the actual date when the filing of the appeal or application, as the case may be, took place.

**35.** By use of the phrase "*after the prescribed period",* it is clear that the legislature, for the purpose of construing the expression "*within such period*", has contemplated to also include the time period after the expiry of the prescribed period of limitation till the actual date of filing of the appeal or application, as the case may be.

**36.** In Section 5 of the Limitation Act, the phrases "*for not preferring the appeal or making the application*" and "*after the prescribed period*" have been used by the legislature conjointly to assign meaning to the expression "*within such period*". As already discussed, the former refers to the period in which the appeal or the application was required by the law to be filed within, while the latter signifies the period within which such appeal or application, is being filed or in other words, the original prescribed period of limitation and the period after the expiry of limitation till the actual date of institution, respectively.

**37.** When one reads the phrase "*within such period*" together with the expressions "*after the prescribed period*" and "*for not preferring the appeal or making the application*", it becomes as clear as a noon day, that the said phrase i.e., "*within such period*" includes both the original period of limitation prescribed as-well as the period of delay leading up to the actual filing of the appeal or application, as the case may be. There can be no question of construing "*within such period*" as making a reference either to only the original period of limitation or to only the actual period of delay after the expiry of limitation.

**38.** It is a well settled rule of statutory interpretation that while construing a provision, a meaningful effect should be given to each and every word used

by the legislature within the text of the provision. In interpreting a provision, a coherent meaning has to be culled out from the entire scheme of the Act and the provisions contained therein. The entire text of the provision must be read holistically with the entire Act, in toto, and harmoniously integrated with the other provisions to preserve internal consistency. Stray lines or words of a provision cannot be isolated or construed in fragments, detached from the remaining words and expressions of the provision as-well as the other provisions within the statute.

**39.** Thus, we have no hesitation in saying that both the expressions, by a necessary implication indicate that the phrase "*within such period*" signifies that the period covered therein extends to not only the original period within which, the appeal or the application, as the case may be, should have been filed, if not for the delay, but also the period taken in addition to the prescribed period of limitation for filing such appeal or application, as the case may be.

**40.** As such, under Section 5 of the Limitation Act, for the purpose of seeking condonation of delay in filing of an appeal or application, as the case may be, beyond the stipulated period of limitation, the delay in the filing has to be explained by demonstrating the existence of a "sufficient cause" that resulted in such delay for both the prescribed period of limitation as-well as the period after the expiry of limitation, up to actual date of filing of such appeal or

application, as the case may be, or to put it simply, explanation has to be given for the entire duration from the date when the clock of limitation began to tick, up until the date of actual filing, for seeking condonation of delay by recourse to Section 5 of the Limitation Act.

**c. The expression "within such period" cannot be conflated with "during such period" or "for such period".**

**41.** We may now look into the decision of ***Rewa Coal Fields*** (supra), more particularly the observations "*to hold that the expression "within such period" means during such period would, in our opinion, be repugnant in the context*", made therein. ***Rewa Coal Fields*** (supra), in arriving at the conclusion, that the expression "*within such period*" refers to the period after the expiry of limitation, beginning from the last day of the limitation that has been prescribed till the day on which the appeal or application is filed, had held that, if the expression is interpreted to mean only the prescribed period of limitation ending with the last day of limitation, then the same would tantamount to reducing the expression "*within such period*" to "*during such period*", an understanding which is repugnant to the bare text as-well context of Section 5 of the Limitation Act.

**42.** With all humility at our command and with due deference if this is what was in the mind of the learned Judges then we are afraid that is not the correct position of law.

**43.** We shall discuss the context of Section 5 of the Limitation Act in detail, in the latter parts of this judgment. For now, we shall test the meaning of the expression "*within such period*" from the textual interpretation of the provision.

**44.** Insofar, as the apprehension that ***Rewa Coal Fields*** (supra) harboured as regards the expression "*within such period*" being conflated with "*during such period*" if Section 5 is construed to mean that delay has to be explained for the duration of the prescribed period of limitation, the same, to our minds does not appear to be a correct understanding of the bare text of the provision.

**45.** No doubt, in Section 5 of the Limitation Act, the legislature has not used the expression "*during such period*" and instead, has consciously employed the phrase, "*within such period*", and thus, the expression cannot be solely confined to mean only the prescribed period of limitation. To the extent of the aforesaid, we are in complete agreement with ***Rewa Coal Fields*** (supra).

**46.** However, to say that the expression "*within such period*" has to then necessarily be construed to mean only the period after the expiry of limitation, beginning from the last day of the prescribed limitation till the day

on which the appeal or application is filed, is not a correct appreciation of the provision.

**47.** We must be mindful of the fact, that the legislature has consciously not employed the phrase "*for such period*" within the provision so as to convey that the period for which explanation has to be offered refers to only that period which is in actual delay i.e., the period after the expiry of limitation, beginning from the last day of the limitation that has been prescribed till the day on which the appeal or application is filed, as has been inadvertently understood by ***Rewa Coal Fields*** (supra).

**48.** If at all we are to go into the semantics of what has been used and what has not been used by the legislature within the bare text of the said provision, then we must also not ignore how the legislature refrained from employing the phrase "*for such period*". Merely because, the expression "*during such period*" has not been used in Section 5 of the Limitation Act, is by no stretch of imagination, a reason to construe that the phrase "within such period" would cover within its ambit only that period which is in actual delay or beyond the prescribed period of limitation. Had the intent of the legislature been so, then it would have used the phrase "for such period" instead.

**49.** What can be discerned from the above discussion is that the meaning of the expression, "*within such period*" cannot possibly be confined or restricted to

mean any one extreme i.e., it can neither be construed to mean only the prescribed period of limitation nor to denote only that period beyond the prescribed limitation, sans the use of the phrase "*during such period*" or "*for such period*", respectively, by the legislature.

**50.** Thus, the only natural corollary that could be supplied to the aforesaid is that, the phrase "*within such period*" must then necessarily be construed to refer and encompass both; the original prescribed period of limitation as-well as the period subsequent to its expiry, extending up to actual date of filing of the appeal or application, as the case may be, i.e., the entire continuum commencing from the point at which the limitation period first began to run, until the eventual filing of the appeal or application, as the case may be. An interpretation, which is also naturally apparent and forthcoming, when the phrase "*within such period*" is read and understood in conjunction with the expressions "*after the prescribed period*" and "*for not preferring the appeal or making the application*", as contained in the said provision.

**51.** We shall now look into the context of Section 5 of the Limitation Act, more particularly the manner and the circumstances in which the court condones the delay in filing of an appeal or application, as the case may be.

**d. The contextual import of the expression "within such period" with the Canons of Law of Limitation.**

**52.** This Court in ***Rewa Coal Fields*** (supra) observed that since a party is entitled to take its time and file the appeal or application, as the case may be, on any day, during the prescribed period of limitation, it would be "*unreasonable that when delay has been made by the party in filing the appeal it should be called upon to explain its conduct during the whole of the period of limitation prescribed*". Although, it said that such consideration may be of relevance for the purpose of deciding whether a particular case is one fit for the court to exercise its discretion to condone the delay, yet the same would be a question to be answered, only after sufficient cause is shown, as otherwise it is of no significance, for the purpose of construing the period for which delay has to be explained under Section 5 of the Limitation Act. It further elaborated that the general considerations of diligence of parties in pursuing their legal remedies "*have very little relevance in construing the provisions of Section 5*" and that there cannot be any "*enquiry as to why the party was sitting idle during all the time available to it*".

**53.** It is for this reason, that this Court in ***Rewa Coal Fields*** (supra), hesitated in accepting the contention, that the period for which explanation has to be given by demonstrating sufficient cause is the duration from the last day of expiry of limitation leading up to the actual date of filing of the appeal or application, as the case may be.

**54.** We find ourselves, yet again, unable to agree to the aforesaid reasoning assigned by this Court in ***Rewa Coal Fields*** (supra) for the reasons that we shall assign hereinafter.

**55.** First, we must try to understand what was in the mind of this Court in ***Rewa Coal Fields*** (supra) when it made the aforementioned observations as regards examining into the diligence of parties for the purpose of condonation of delay. What has been conveyed in so many words, by ***Rewa Coal Fields*** (supra) is that Section 5 of the Limitation Act, does not expressly lay down parameters of bona-fides or diligence of the litigant, as opposed to Section 14 of the self-same Act, where the legislature has specifically employed the words "*good faith*".

**56.** What ***Rewa Coal Fields*** (supra) is trying to convey is that, if such parameters which otherwise cannot be culled out from the text of the provision, can only be read into "*sufficient cause*" that too for the limited purpose of deciding whether the discretion to condone the delay be exercised or not, then such parameters will be of no significance insofar as interpreting "*within such period*" is concerned, for it is confined only to the "*sufficient cause*", and if that be the case, then the inaction of party for the entire prescribed period of limitation, will too, be of no significance.

**57.** Thus, the party would effectively be required to only come and explain the delay in filing of the appeal or application, as the case may be, only from the last day on which the limitation would have expired, till the actual date of filing of such appeal or application.

**58.** The law of limitation is founded on public policy. The object of limitation is to put a *quietus* on stale and dead disputes. A person ought not to be allowed to agitate his claim after a long delay.

**59.** Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time. The law of limitation is thus founded on public policy. **[See: *N. Balakrishnan v. M. Krishnamurthy*, (1998) 7 SCC 123]**

**60.** The bedrock of law on limitation flows from two age-old Latin maxims; *interest reipublicae up sit finis litium* and *vigilantibus non dormientibus jura subveniunt*, which mean; "it is in the interest of the State that there be an end to litigation" and "the law assists those who are vigilant, and not those who sleep over their rights", respectively. The former emphasizes that protracted litigation puts a strain on the judicial system and undermines the law's role in dispute resolution, and so the public interest requires that disputes be resolved in some final form rather than continuing indefinitely to drain the resources of courts and the parties. While the later connotes that a person who has slept on his rights may be denied enforcement of the same when the resulting delay would cause an unfair prejudice.

**61.** What flows from the aforesaid is that the dominant objective underlying the law of limitation is that any *lis* cannot be kept in a state of flux or uncertainty, doubt or suspense. Public interest demands that at some point finality be put to the litigation. It is in this context that the Limitation Act, prescribes the specific points of time from which the period of limitation begins to run for the institution of actions or recourse to litigation. On expiry of such period, no action can be initiated save and except where the court condones the delay for a sufficient cause. A party who is insensible to the value of civil remedies, and who does not assert his claim with promptitude is denied the ability to

enforce even an otherwise rightful claim. **[See: *DDA v. Tejpal & Ors*., (2024) 7 SCC 433]**

**62.** At this stage, it would be apposite to refer to Section 3 of the Limitation Act, which reads as under: -

> *"**3. Bar of limitation.—***
> *(1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence.*
>
> *(2) For the purposes of this Act,—*
> *(a) a suit is instituted,—*
>
> *(i) in an ordinary case, when the plaint is presented to the proper officer;*
> *(ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and*
> *(iii) in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator;*
>
> *(b) any claim by way of a set off or a counter claim, shall be treated as a separate suit and shall be deemed to have been instituted—*
> *(i) in the case of a set off, on the same date as the suit in which the set off is pleaded;*
> *(ii) in the case of a counter claim, on the date on which the counter claim is made in court;*
>
> *(c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court."*

**63.** Bare reading of the aforesaid provision leaves no room for doubt that if a suit is instituted, appeal is preferred or application is made after the prescribed period, it has to be dismissed even though no such plea has been raised or defence has been set up. In other words, even in the absence of such plea by the defendant, respondent or opponent, as the case may be, the court or authority must dismiss such suit, appeal or application, if it is satisfied that the suit, appeal or application is barred by limitation. Limitation goes to the root of the matter. If a suit, appeal or application is barred by limitation, a court or an adjudicating authority has no jurisdiction, power or authority to entertain such suit, appeal or application and to decide it on merits. **[See: Noharlal Verma v. Distt. Coop. Central Bank Ltd., (2008) 14 SCC 445]**

**64.** Section 3 sub-section (1) of the Limitation Act makes every proceeding filed after the *prescribed period*, liable to be dismissed, subject however to the provisions in Section(s) 4 to 24 of the Limitation Act. It mandates that it would be the duty of the court to dismiss any suit instituted after the prescribed period of limitation irrespective of the fact that limitation has not been set up as a defence. If a suit is ex facie barred by the law of limitation, a court has no choice but to dismiss the same even if the defendant intentionally has not raised the plea of limitation. **[See: *V.M. Salgaocar and Bros. v. Board of Trustees of Port of Mormugao*, (2005) 4 SCC 613]**

**65.** The above exposited fundamental pillars of the law on limitation, namely, **(i)** that the sword of prosecution ought not to be hanging over an individual for an indeterminate period and **(ii)** those who have been lethargic in safeguarding their interests should not expect the law to come to their rescue, are reflected in Section 3 of the Limitation Act, more particularly sub-section (1) inasmuch as it enjoins a duty upon the courts to dismiss any suit instituted, appeal preferred and application made, after the period of limitation prescribed therefor by Schedule I irrespective of the fact whether the opponent had set up the plea of limitation or not. It is the duty of the court not to proceed with the application if it is made beyond the period of limitation prescribed.

**66.** Thus, the Limitation Act is an embodiment of a clear legislative policy that litigation must be commenced, prosecuted, and concluded within a definite timeframe. Section 3 of the Limitation Act gives effect to this mandate in categorical terms by obligating courts to dismiss every suit, appeal, or application instituted beyond the prescribed period, irrespective of whether limitation is raised as a defence. This provision is not a matter of discretion but of duty, for it reflects the underlying public interest in ensuring certainty, finality, and repose in legal disputes.

**67.** Section(s) 4 to 24 of the Limitation Act is only an exception to the aforesaid unexceptionable rule. Likewise, Section 5 of the Limitation Act is no different. It cannot be construed in isolation from Section 3 or from the overarching rationale behind the said provision. When we say, that Section(s) 4 to 24 of the Limitation Act, which includes Section 5, is only an exception, we do not for a moment say that it is an exception to the core axioms of '*interest reipublicae up sit finis litium'* and '*vigilantibus non dormientibus jura subveniunt'* that underline the Limitation Act. The aforesaid form the very jurisprudential underpinnings on why we even have prescribed periods of limitation, and are the very basis for the existence of statutes on limitation in every civilized country that has ever existed.

**68.** Section(s) 4 to 24 of the Limitation Act are only an exception insofar as the mandate enshrined under Section 3 is concerned, which enjoins a duty upon the courts to dismiss any suit instituted, appeal preferred, or application made after the prescribed period of limitation. They as a matter of exception, enable the courts to entertain a suit, appeal or application, filed even after the prescribed period of limitation where the delay was owed to factors beyond the reasonable control of the litigant. But this does not mean, that delays occasioned or accompanied to some extent by negligence, inaction, or a lack of care or vigilance of the litigant would also be liable to be excused, or at the very least ignored by the court even if the delay in question happens to

formulaically fulfil the statutorily prescribed parameters for excusing the same.

**69.** To say otherwise, that Section(s) 4 to 24 of the Limitation Act and by extension Section 5 of the Limitation Act, is an exception to the rule requiring litigants to be vigilant and diligent in their endeavours for pursuing legal remedies, or that the negligence or inaction of a litigant during the prescribed period of limitation have no place, insofar as Section(s) 4 to 24 are concerned, would have a chilling effect of eradicating every basic tenet for which a prescribed period of limitation exists and could result in manifest injustice to those prejudiced by such laches or delays, if condoned. It would tantamount to reducing Section(s) 4 to 24 of the Limitation Act to tools for subverting rather than effectuating the legislative intent to not excuse negligence, inaction, or lack of diligence on the part of a litigant except where the delay is occasioned by factors that lie beyond its reasonable control, and thereby create a very skewed and distorted understanding of the Limitation Act, where despite the aforesaid legislative intent being imbued in every other provision of the Limitation Act, permeating across the scheme thereof, the same would be discarded for a select set of provisions i.e., Section(s) 4 to 24, while being scrupulously enforced for all other provisions.

**70.** Thus, Section(s) 4 to 24 of the Limitation Act, including Section 5, must be understood in the broader framework of the law of limitation. They cannot be construed as a gateway to overlook or overcome the sound principles of '*interest reipublicae up sit finis litium'* and '*vigilantibus non dormientibus jura subveniunt'* that are the elementary constituents of the Limitation Act and all its ideals. It is in the same breath that we say, that the provision of Section 5 of the Limitation Act, cannot be read in a manner which is either derogatory to, or tends to dilute the aforesaid fundamental edifice of the law of limitation to a mere *ad-lib*.

**71.** In this regard we may refer to the decision of this Court in ***Hameed Joharan (Dead) & Ors. v. Abdul Salam (Dead) by LRs & Ors.***, reported in **(2001) 7 SCC 573**, wherein it was observed that the general policy of the law of limitation encapsulated in the Limitation Act is to favour the use of legal diligence. Expounding the maxim of '*vigilantibus et non dormientibus jura subveniunt'* it was held that a court of law never tolerates an indolent litigant since delay defeats equity. It further held that lapse of time is a species for forfeiture of right. The relevant observations read as under: -

> *"14. Needless to record that engrossment of stamped paper would undoubtedly render the decree executable but that does not mean and imply, however, that the enforceability of the decree would remain suspended until furnishing of the stamped paper — this is opposed to the fundamental principle on which the statutes of limitation are founded. It cannot but be the general policy of our law to use the legal diligence and this has been the*

*consistent legal theory from the ancient times: even the doctrine of prescription in Roman law prescribes such a concept of legal diligence and since its incorporation therein, the doctrine has always been favoured rather than claiming disfavour. Law courts never tolerate an indolent litigant since delay defeats equity — the Latin maxim vigilantibus et non dormientibus jura subveniunt (the law assists those who are vigilant and not those who are indolent). As a matter of fact, lapse of time is a species for forfeiture of right. Wood, V.C. in Manby v. Bewicke (K&J at p. 352) stated: (ER p. 1144)*

> *"The legislature has in this, as in every civilized country that has ever existed, thought fit to prescribe certain limitations of time after which persons may suppose themselves to be in peaceful possession of their property, and capable of transmitting the estates of which they are in possession, without any apprehension of the title being impugned by litigation in respect of transactions which occurred at a distant period, when evidence in support of their own title may be most difficult to obtain.""*

(Emphasis supplied)

**72.** As aptly noted in ***Hameed Joharan*** (supra), lapse of time is a specie for forfeiture of right, which is why where a litigant allows the limitation to expire for any right or remedy, due to its own volition, be it in the form of, inaction, lethargy, negligence or mistake, which could have been avoided, no indulgence should ordinarily be shown by the courts in entertaining or enforcing the assertion of such rights, *de hors*, the litigant otherwise demonstrating a cause for such delay, which may as well also fit within any of the parameters of the exceptions carved out within Section(s) 4 to 24 of the Limitation Act.

**73.** Thus, the reasoning of this Court in ***Rewa Coal Fields*** (supra) that the parameters of 'bona-fides', 'diligence' or 'inaction' of the litigant have no bearing on relevance for the purpose of construing Section 5 of the Limitation Act, in the absence of any express language in this regard being couched in the provision is flawed. These parameters flow directly from the maxim '*vigilantibus et non dormientibus jura subveniunt*' enshrined in the Limitation Act, albeit to varying degrees depending upon the provision in question, but by no stretch are they excluded from application, wantonly or otherwise, in any provision thereof. Merely because the provision does not explicitly lay down any of the aforesaid parameters cannot be construed to mean that the legislative intent behind the provision also, was to not allude to the same.

**74.** The legislature always speaks through the statute it enacts, and its intention behind any provision or provisions thereof, is to be gathered from the language used in the provision along with the avowed objects with which the same came to be enacted. In construing or interpreting a provision, any deviation from the legislative intent that backs the particular statute containing the said provision cannot be done casually. Mere omission of few stray words, does not detract or take away the lofty intent behind enacting the statute and cannot always be interpreted to impute a contrary intent unless

the same is apparent and supported by some other salutary object with which such omission may have been made.

**75.** In this regard, it could be argued that the legislature may have intentionally omitted the express mentioning of any of the aforesaid parameters pertaining to party diligence in Section 5 of the Limitation Act, to lay stress on two key components of the law of limitation. *First,* that a party has a right to file an appeal or application, as the case may be on any day within the prescribed period of limitation and *secondly,* that the rules of limitation are not meant to destroy or extinguish rights of litigants but only to curb deliberate dilatory tactics.

**76.** If at all such was the intention behind the legislature, then the same is being adequately subserved by virtue of the discretion bestowed onto the the courts under Section 5 of the Limitation Act.

**77.** There was no need to exclude the applicability of these parameters from the expression "*within such period*" or the overall provision of Section 5 of the Limitation Act, if all that the legislature intended was to ensure that expiry of limitation should not result in extinguishment of rights of parties.

**78.** The legislature in its wisdom, has in order to lay emphasis that rights of a party ought not to be defeated or relinquished by the expiry of limitation,

conferred the discretion to courts to condone the same, subject to showing sufficient cause.

**79.** But to read this entitlement to file the appeal or application, on any day of the limitation, as instrument to construe the import of "*within such period*", would run counter to the object of limitation, which is to enthuse a sense of responsibility and vigilance upon the litigants and avoid protraction of the *lis*. It would, in our opinion, invariably give the litigants, a 'free-pass' to resort to dilatory tactics for the substantial portion of the prescribed period of limitation, with little to no consequence.

**80.** For illustration, any person, who is able to demonstrate that he or she, began to take some steps towards preferring the appeal or making the application, on the very last day of limitation, whereafter, he or she, ran into some snags which otherwise, was a sufficient cause, for the subsequent delay, would be entitled to condonation of the same. The courts in such a scenario, even after being satisfied about the existence of a 'sufficient cause' may nevertheless have the discretion to choose not to condone the same, but not for the reasons of prior inaction of such litigant during the remaining period of limitation if the dictum of ***Rewa Coal Fields*** (supra) is squarely followed. This is because, ***Rewa Coal Fields*** (supra) also deprecates "*an enquiry as to why the party was sitting idle during all the time available to it*" even after sufficient cause

is shown to it, although not as a straitjacket formula, but still nevertheless very rigidly.

**81.** On the contrary, recognizing the flip side of the proposition that rules of limitation are not meant to destroy the rights of parties into the exercise of discretion by the courts to admit any assertion of the same, after the prescribed period of limitation, provided there is no inaction or negligence, on the part of the litigant, rather than reading the same into "*within such period*" or "*sufficient cause*", to our minds, appears to be the least disruptive interpretation of Section 5 of the Limitation Act, that would balance the salutary object of any statute of limitation, *in toto*. It would not only ensure that not even an ounce of dilatory tactics by a litigant is allowed to pollute the streams of justice, but also curb the seriously falling standards of diligence that the litigants today have towards assertion of their rights or availment of remedies, and a growing tendency to leave things for the last moment, at the cost of prejudice to other litigants, and without any modicum of respect for the courts and judicial resources. At the same time, it will also allow courts to save those rights and permit their enforcement or adjudication, by a judicious exercise of their discretion in justified instances of delays, that are not a byproduct or result of the litigant's own inaction or negligence.

**82.** Thus, to our minds, the fixation by ***Rewa Coal Fields*** (supra) that "*within such period*" covers only the period from the last day of limitation till the actual date of filing, does not appear to be supported either by the bare text of the provision or by the mere omission of an express contextual concomitant, in the form of any parameters to avert to any inaction, negligence or lack of diligence of a litigant under Section 5 of the Limitation Act, that could be suggestive of the legislative intent to avoid applicability of such parameters for the condonation of delay thereunder.

**83.** We need not dwell any further on this. We may only say, that even in the absence of any express mentioning of any of the aforesaid parameters, the legislature's intent is very limpid. The use of the prefix "*sufficient*" in Section 5 of the Limitation Act, itself for lack of a better word, sufficiently indicates that the legislature was conscious of its use and import, and inherently intends to convey the applicability of these parameters to these provisions. Once it is clear, that such parameters of diligence or lack of any inaction etc., can be read into "*sufficient cause*" it can be no one's case that, the same would also not include averting to any inaction of the party during the remaining period of limitation, and only to the last day of expiry of limitation, as ***Rewa Coal Fields*** (supra) has understood.

**84.** We say so, because both the expressions "*sufficient cause*" and "*within such period*" are inextricably linked together. We have already alluded how the expression "*within such period*" is to be construed. For the purpose of Section 5 of the Limitation Act, the foremost requirement is to demonstrate existence of a "*sufficient cause*" for the period covered by the expression "*within such period*", thereby meaning that, any inaction of the litigant during the remaining prescribed period of limitation apart from the last day of the limitation would be equally relevant for determining sufficiency of cause or to be precise the lack thereof. To put it simply, if the inaction of a party is relevant for the last day of the limitation to determine that there was no sufficient cause as per ***Rewa Coal Fields*** (supra), then it would also, invariably be relevant for the remaining period of the prescribed limitation, as-well as the period after the expiry of limitation leading up to the actual filing of the appeal, as the expression "*within such period*" used in Section 5, does not demarcate any difference between these intervals.

**85.** Rather, the expression "*within such period*" treats, 'the prescribed period of limitation', 'the last day of expiry of limitation' and 'the period after the expiry of limitation till the date of filing', as the same for the purpose of condonation of delay, which is to say that, as long as there was a "*sufficient cause*" continuing between all these three intervals, the court would have the

discretion to condone the same, provided the sufficient cause is not the result of negligence, inaction or lack of diligence of the litigant.

**86.** One another good reason that fortifies our mind to hold the aforesaid is due to the very nature of the provision of Section 5 of the Limitation Act. The said provision, as evident from its text, is only applicable in respect of appeals or applications. *Lis* that arises from appeals or applications, more often than not, do not partake the character of original proceedings. The deliberations and contemplations that a party undertakes before availing the remedy of the courts, is much lesser in threshold in case of appeals or applications, than in proceedings of original nature.

**87.** The aforesaid unique distinction between the nature of original and appellate proceedings for the purpose of Section 5 of the Limitation Act, was recognized by this Court in ***University of Delhi v. Union of India & Ors.*** reported in **(2020) 13 SCC 745**, with the following relevant observations: -

> *"25. The entire explanation for the inordinate delay of 916 days is twofold i.e. the non-availability of the Vice-Chancellor due to retirement and subsequent appointment of new Vice-Chancellor, also that the matter was placed before the Executive Council and a decision was taken to file the appeal and the said process had caused the delay. The reasons as stated do not appear very convincing since the situation was of availing the appellate remedy and not the original proceedings requiring such deliberation when it was a mere continuation of the proceedings which had already been filed on behalf of the appellant herein, after due deliberation. [...]"*
>
> (Emphasis supplied)

**88.** It follows, that such appeals or applications, are generally preferred as continuation of proceedings already instituted or within proceedings already ongoing before a forum. In such instances, the degree of vigilance that is expected is much higher, a party is required be prompt in making all possible endeavours to take the next step by filing the appeal or application. The inaction or laxity of the party in making such endeavours is all the more significant for deciding if delay should be condoned or not, as, by the time the stage of preferring the appeal or application, arises, it already has the necessary knowledge to act upon quickly, by virtue of the prior or ongoing proceedings. If despite it, a party chooses to wait till the very last date, it may in all probability be the result of a deliberate action to dilate the proceedings or the lack of any modicum of respect for the prescribed period of limitation.

**89.** Thus, the notion that a party who failed to timely avail its remedies, by way of appeal or application, despite having sufficient awareness of the original proceedings should be shown due deference in condonation of delay, and is entitled to wait, without being questioned, till the last day of limitation, is preposterous.

**e. Decisions which Rewa Coal Fields (supra) failed to take into consideration.**

**90.** There are a conspectus of decisions, by this Court, which lay down that general considerations of lack of diligence or vigilance, indolence or

inactivity are of relevance for the purpose of Section 5 of the Limitation Act, more particularly for both the expressions "*sufficient cause*" and "*within such period*". We need not discuss, all the decisions, and rather intend to only refer and rely upon a handful of them.

**91.** In ***Dinabandhu Sahu v. Jadumoni Mangaraj***, reported in **(1954) 1 SCC 800**, a five-Judge Bench of this Court was *inter-alia* called upon to examine Section 85 of the Representation of People's Act, 1951, which is materially similar to Section 5 of the erstwhile Limitation Act, 1908, which is *pari materia* to its counterpart provision under the present Limitation Act. In the said decision, this Court approvingly referred to a Full Bench decision of the Madras High Court in ***Krishna v. Chathappan*** reported in **1889 SCC OnLine Mad 1**, to hold that the words "*sufficient cause*" in Section 5 of the Limitation Act should receive "*a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fides is imputable"* (emphasis). The relevant observations read as under: -

> *"Even if the matter had to be judged under Section 5 of the Limitation Act, it would have been a proper exercise of the power under that section to have excused the delay. As was observed in the Full Bench decision in Krishna v. Chathappan in a passage which has become classic, the words "sufficient cause" should receive "a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fides is imputable to the appellant". We have, therefore, no hesitation in holding that the order dated 2-7-1952 is on the facts a proper one to pass under the proviso to Section 85."*

(Emphasis supplied)

**92.** Thus, as per the dictum laid by a five Judge Bench all the way back in 1954 in ***Dinabandhu Sahu*** (supra), considerations of negligence, inaction or want of bon-fides, are relevant under Section 5 of the Limitation Act, more particularly for determining "*sufficient cause*". ***Rewa Coal Fields*** (supra), whilst making the observations that "*it would be immaterial and even irrelevant to invoke general considerations of diligence of parties in construing the words of Section 5 ... If sufficient cause is shown then the court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it"* failed to take into account the earlier larger bench decision of this Court in ***Dinabandhu Sahu*** (supra).

**93.** It would be apposite to refer to one another decision of this Court in ***Sitaram Ramcharan Etc. v. M.N. Nagarshana & Ors.*** reported in **1959 SCC OnLine SC 89**, which was, remarkably, rendered by the very same Bench that later

rendered the decision of ***Rewa Coal Fields*** (supra). In the said case, the appellants therein had filed applications for claim of overtime wages, that they were entitled to receive on the strength of one decision of the Small Causes Court delivered on May 2nd 1952. However, since the applications for claim of overtime wages, had been filed after expiry of the prescribed period of limitation, an additional prayer for condonation of delay was made under the second proviso to Section 15 sub-section (2) of the Payment of Wages Act, 1936, which empowered the concerned authority to *inter-alia* condone the delay was due to sufficient cause. The prayer for condonation fo delay was rejected by the concerned authority and thereafter by the High Court as-well.

In appeal, this Court placed reliance on Section 5 of the Limitation Act, to construe the import of the term "*sufficient cause*". Although, this Court ambiguously observed that "*in dealing with the question of condonation of delay*" the "*party has to satisfy the court that he had sufficient cause"* and "*this has always been understood to mean that the explanation has to cover the whole of the period of delay*", yet it never explained or elaborated what duration of period would be covered. It did not allude whether the same would include only the period from the last day of expiry of limitation, till the date of actual filing, or only the prescribed period of

limitation, or both, nor does the decision relied upon by it shed any light on the same.

However, a closer look at the decision would reveal that, what was in the mind of this Court was that explanation has to cover both the aforesaid periods i.e., the entire duration from when the limitation period started till the actual date of filing. Moreover, it also appears to have applied the general considerations of inaction and lack of diligence of the parties for construing "*sufficient cause*". We say, so, because this Court held that the appellants therein had failed to establish "*sufficient cause*" as they could not explain their inaction between May 2nd 1952 (which we may clarify, was the date when the limitation period began to run) till the respective dates on which they filed their applications, and thus, would be fatal to their prayer for condonation of delay, and by extension the ultimate fate of their applications. The relevant observations read as under: -

> *"4. [...] On May 2, 1952, the appellate decision delivered by the Chief Judge of the Court of Small Causes, in the case of Ruby Mills, however, construed Section 70 of the Bombay Shops and Establishments Act and held that the employees falling under the provisions of the said section were entitled to claim overtime wages under Section 59 of the Factories Act. In other words, this decision for the first time properly construed Section 70 of the Bombay Act and held that the said section in substance extended the provisions of Section 59 of the Factories Act to the employees covered by Section 70.*
>
> *xxx xxx xxx*

*14. As we have already noticed the authority has held against the appellants on two grounds, one that ignorance of law cannot be a sufficient cause, and second that, even if it was, in fact the appellants had not explained the delay made by them in making the present applications after they knew of the decision in the case of Ruby Mills on May 2, 1952. This latter conclusion is a finding on a question of fact and its propriety or validity could not have been challenged before the High Court and cannot be questioned before us in the present appeals. Unfortunately it appears that the attention of the learned judges of the High Court was not drawn to this finding; otherwise they would have considered this aspect of the matter before they proceeded to deal with the interesting question of law raised before them.*

*15. Mr Phadke fairly conceded that he could not effectively challenge the finding of the authority that no satisfactory explanations had been given for the delay in question. He, however, argued that the said finding would not effect the final decision because, according to him, once it is held that ignorance of law can be a sufficient cause, then the period until May 2, 1952, would be covered by the appellants' ignorance about the true scope and effect of the provisions of Section 70 of the Bombay Shops and Establishments Act. This position may be conceded. It is true that the true effect of the said section was not appreciated by either the workmen and Their union or the employers or the authorities under the Factories Act, or even by the industrial courts. But the question still remains whether the appellants are not required to explain the delay made by them after May 2, 1952. Mr Phadke says that it is not necessary for his clients to explain this delay. His argument is that what the relevant proviso really means is that if sufficient cause has been shown for not making the application within the prescribed period of six months then the application can be made any time thereafter. The statutory bar created by the prescribed limitation is removed once it is shown that there was sufficient cause for not making the application within the said period; and once that bar is removed, there is no further question of limitation and the applicant cannot be called upon to explain the subsequent delay. That is the effect of the argument urged by Mr Phadke on the relevant proviso.*

*xxx xxx xxx*

> *19. The proviso with which we are concerned has prescribed the limitation of six months for the institution of the application itself, and so the principle laid down in Lingley case can have no application to the question which we have to decide. Indeed, the present proviso is in substance similar to the provision in Section 5 of the Limitation Act and Mr Phadke has fairly conceded that there is consensus of judicial opinion on the question of the construction of Section 5. It cannot be disputed that in dealing which the question of condoning delay under Section 5 of the Limitation Act the party has to satisfy the court that he had sufficient cause for not preferring the appeal or making the application within the prescribed time, and this has always been understood to mean that the explanation has to cover the whole of the period of delay (vide Ram Narain Joshi v. Parameswar Narain Mehta. Therefore the finding recorded by the authority that the appellants have failed to establish sufficient cause for their inaction between May 2, 1952, and the respective dates on which they filed their present applications is fatal to their claim. That is why we think it unnecessary to consider the larger question of law which Mr Phadke sought to raise before us.*
>
> (Emphasis supplied)

**94.** From the above, it is manifest that in ***Sitaram Ramcharan*** (supra) this Court has in so many words, held that "*sufficient cause*" for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, would entail explaining the existence of such "sufficient cause" within the prescribed period of limitation till the actual date of filing of appeal or application, as the case may be. It is also manifest that the general considerations of negligence or inaction of the litigant during the prescribed period of limitation would be equally relevant for the purpose of determining "*sufficient cause*". Thus, it appears that the very Bench which rendered ***Rewa***

***Coal Fields*** (supra) failed to refer to its own earlier decision in ***Sitaram Ramcharan*** (supra).

**f. Condonation of Delay entails Extension of Limitation and not Exclusion.**

**95.** Even otherwise, one another reason why we find ourselves unable to agree with ***Rewa Coal Fields*** (supra) insofar as its observations as regards the context of Section 5 of the Limitation Act is concerned, may be understood from one another angle.

**96.** The marginal note appended to Section 5 of the Limitation Act is titled "*Extension of prescribed period in certain cases*". The provision provides that where an appeal or application, as the case may be, is not filed within the prescribed period of limitation, the same may be admitted if "*sufficient cause*" for such failure is shown. The court may, in its discretion, proceed to condone the delay, if it is satisfied about the existence of such sufficient cause that resulted in the delay. In doing so, the court condones the delay in such filing by 'extending' the prescribed period of limitation in order to bring the application or appeal, as the case may be, in the eyes of law, within the limitation period, to then admit the same.

**97.** What is pertinent to take note of is that the condonation of delay does not result in exclusion of the period during which the sufficient cause persisted, it instead talks about extension of the period from the date when the prescribed period of limitation expired till the actual date of filing of the appeal or application. This gives the very first clue, that the expression "*within such period*" includes the prescribed period of limitation as-well. We say so, because, when the court condones the delay, it only extends that amount of period that would be required to bring the appeal or application, as the case may be, in the eyes of law, within the limitation period. Even if the "*sufficient cause*" occasioned on the very first day when the clock of limitation began to tick, the court would effectively only extend for that period, which was consumed after the expiry of limitation. Thus, the neither the expression "*after the prescribed period of limitation*" nor the period which is being extended by the court in condoning the delay, could be said to be the sole constituent of the expression "*within such period*".

**98.** It is no more *res-integra*, that for the purpose of Section 5 of the Limitation Act, "*sufficient cause*" must have occasioned during the prescribed period of limitation, and even ***Rewa Coal Fields*** (supra) concurs with the aforesaid, although to the limited extent that, only the sufficient cause on the last day of expiry of limitation is material.

**99.** This Court in ***Shakuntala Devi Jain v. Kuntal Kumari*** reported in 1968 SCC **OnLine SC 139** held that Section 5 of the Limitation Act gives the courts a discretion, where even if sufficient cause for the delay is made out, the court may refuse to condone the delay. The relevant observations read as under: -

> "*7. The next question is whether the delay in filing the certified copy or, to put it differently, the delay in refiling the appeal with the certified copy should be condoned under Section 5 of the Limitation Act. If the appellant makes out sufficient cause for the delay, the Court may in its discretion condone the delay. As laid down in Krishna v. Chathappan "Section 5 gives the courts a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood; the words "sufficient cause" receiving a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fides is imputable to the appellant."*
>
> (Emphasis supplied)

**100.** In ***Indian Oil Corpn. Ltd. v. Subrata Borah Chowlek,*** reported in **(2010) 14 SCC 419** this Court reiterated that even upon showing a sufficient cause, a party is not entitled to the condonation of delay as a matter of right, yet it is trite that in construing sufficient cause. The relevant observations read as under: -

> *"6. Having heard the learned counsel, we are of the opinion that in the instant case a sufficient cause had been made out for condonation of delay in filing the appeal and therefore, the High Court erred in declining to condone the same. It is true that even upon showing a sufficient cause, a party is not entitled to the condonation of delay as a matter of right, yet it is trite that in construing sufficient cause, the courts generally follow a liberal approach particularly when no negligence, inaction or mala fides can be imputed to the party.*
>
> (Emphasis supplied)

**101.** From the above discussion, it is clear that the period which is being effectively extended is only ancillary to the "*sufficient cause*" that would have occasioned. Even the bare text of Section 5 of the Limitation Act, makes it abundantly clear that while "*sufficient cause*" has to be shown for the duration covered by the expression "*within such period*", nowhere does the provision allude that the "period" which would be effectively extended by the court, in exercise of its discretion for condoning the delay under Section 5 of the Limitation Act would be the period for which "*sufficient cause*" is demonstrated. Rather, the expression "*may be admitted after the prescribed period*" clearly indicates that it is only that period, which has been subsumed after the expiry of limitation, as a result of the "sufficient cause" persisting, which would be effectively getting extended by way of condonation. Thus, while the expression "*sufficient cause*" and "*within such period*" are itself inextricably linked together, both these expressions have nothing to do with the manner in which the court proceeds to condone the delay i.e., the period which the court extends in exercise of its discretion under Section 5 of the Limitation Act.

**102.** If the contention is accepted that "*sufficient cause*" has to be demonstrated only for that length of the period that is required to be extended, in order to admit the appeal or application, as the case may be, then it would result in

"*extension*" being conflated with "*exclusion*". Although semantically both may appear to be one and the same, and even the end-result that would ensue if "*extension*" is read as "*exclusion*" would in substance be the same, as ultimately it would be that period after the expiry of limitation till the actual filing that would be extended or excluded to admit the appeal, yet there is very fine but discernible difference between the two, which if not appreciated, would completely warp the mechanism of Section 5 of the Limitation Act, as envisaged by the legislature.

**103.** If the court in condoning the delay in exercise of its powers under Section 5 of the Limitation Act is construed as excluding that period which was consumed after the expiry of limitation, in order to bring it within the "prescribed period of limitation", for the limited purpose of admitting the appeal or application, as the case may be, then this would bring one significant change in how sufficient cause is to be demonstrated.

**104.** The net-effect of the aforesaid would be that, a litigant for seeking condonation of delay, would only be required to demonstrate that "*sufficient cause*" only for that amount of period which is necessary to be excluded so that it is able to bring its appeal or application, as the case may be, within the prescribed period of limitation. For illustration, say, the prescribed period of limitation was 90-days, and the actual date of filing took additional 10-days. Now, in such a scenario, if we read "*extension*" as "*exclusion*", then

"*sufficient cause*" only has to be shown for the 10-days so that, once it is excluded, his filing would be deemed as if it was filed on the 90th day.

**105.** Although the aforesaid, may not, on the surface seem like a drastic consequence if "*extension*" is read as "*exclusion*", yet, it would have an underlying effect which would be contrary to the provision of Section 5 of the Limitation Act, which we shall now explain. If "*extension*" is read as "*exclusion*" and a party is required to demonstrate "*sufficient cause*" only for that duration necessary to be excluded, for the appeal or application, to once again fall within the prescribed period of limitation, for it to be admitted, then the entire exercise contemplated under Section 5, would in simple terms involve showing "*sufficient cause*" such that after the exclusion, the litigant is once again put back into the "*prescribed period of limitation*".

**106.** In other words, if the above interpretation is adopted then the litigant would only have to show "*sufficient cause*" for that period, which after excluding would at the very least put him back into the outermost date on which he could have filed the appeal or application i.e., the last day on which the limitation would have expired.

**107.** However, the power that the court exercises in condoning the delay, is not for the purpose of putting the litigant back into the position he would have enjoyed during the prescribed period of limitation. This is because, during

the prescribed period of limitation, the litigant is entitled, as a matter of right, to file the appeal or application, as the case may be, and the courts cannot object or refuse to admit the same.

**108.** However, Section 5 of the Limitation Act, does not say that, once "*sufficient cause*" is established and the court is also satisfied about the same, then the appeal or application, has to be mandatorily be admitted. On the contrary, the provision, by use of the word "*may*" lays emphasis that even after the court is satisfied about the existence of a "*sufficient cause*", it has the discretion to decide, whether to admit the appeal or application, as the case may be, or not. A catena of decisions of this Court including ***Rewa Coal Fields*** (supra) hold that "*even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right ... if sufficient cause is shown then the court has to enquire whether in its discretion it should condone the delay*".

**109.** If at all, what is contemplated under Section 5 of the Limitation Act, is exclusion of the period consumed after the expiry of limitation for the filling of appeal or application, such that the litigant is put into the same position, he enjoyed on the last day of limitation, or any other day within the prescribed limitation, then where is the question of the courts still being able exercise discretion for deciding to admit or not admit such appeal or application.

**110.** Section 5 of the Limitation Act, also does not speak that the discretion conferred to the courts is limited only for determining if sufficient cause exists or not, and where it has in its discretion decided that such "*sufficient cause*" existed, it has to then mandatorily condone the delay. As succinctly put in ***Rewa Coal Fields*** (supra), even "*if sufficient cause is shown then the court has to enquire whether in its discretion it should condone the delay".*

**111.** The discretion that the courts have been conferred under Section 5 of the Limitation Act, is two-fold, for determining if "*sufficient cause*" existed and where the former is answered in the affirmative, then whether the case is a fit one for it to condone the delay, to admit the appeal or application as the case may be. Which is why, the legislature consciously used the word "*extension*" rather than "*exclusion*" in marginal note to Section 5 of the Limitation Act.

**112.** To say, that the purpose for demonstrating "*sufficient cause*" is to exclude only that extent of period which would once again put the litigant back into the last day on which, he could have filed the appeal or application, would, in our opinion, gravely misconstrue the entire mechanism of Section 5 of the Limitation Act. Thus, the expression "*within such period*" for this reason also cannot be possibly construed to mean the period from the last day of expiry of the limitation, till the actual date of filing of appeal or the application, as

understood by ***Rewa Coal Fields*** (supra). The phrase "*extension*" used in Section 5 of the Limitation Act is not a misnomer.

**113.** It is for this reason that the decisions of this Court in ***Ajit Singh Thakur*** (supra) and ***Ramkumar Choudhary*** (supra) held that "*sufficient cause*" for the delay in filing of an appeal or application, as the case may be, has to be established by some event or circumstance that had arisen before the limitation expired and that the party seeking condonation has to explain the delay the entire continuum commencing from the point at which the limitation period first began to run, until the eventual filing of the appeal or application, as the case may be.

**114.** We may, with a view to obviate any confusion, clarify that the observations made by this Court in ***Ramkumar Choudhary*** (supra), particularly that "*what events occurred after the 91st day till the last is of no consequence*" should not be construed devoid of its context. When this Court in ***Ramkumar Choudhary*** (supra) said that events after the expiry of limitation till the date of actual filing would be of no consequence, the same was made in view of the well-established rule that "*sufficient cause must be establish that because of some event or circumstance arising before the limitation expired*". The aforesaid observations of "*what events occurred after the 91st day till the last is of no consequence*" in ***Ramkumar Choudhary*** (supra) were made in the peculiar facts of that case, where the appellant had failed to assign any

"*sufficient cause*" occasioning during the period of limitation, which rendered the events occurring after the expiry of limitation as irrelevant.

**115.** However, as is manifest from the entire discussion above, for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, the delay has to be explained by establishing the existence of "sufficient cause" for the entirety of the period from when the limitation began till the actual date of filing. In other words, if the period of limitation is 90-days, and the appeal is filed belatedly on the 100$^{th}$ day, then explanation has to be given for the entire 100-days.

## B. <u>What is to be understood by "sufficient cause" in Section 5 of the Limitation</u>.

**116.** As already discussed in the foregoing parts, for the purpose of seeking condonation of delay under Section 5 of the Limitation Act, the party has to demonstrate the existence of a "*sufficient cause*" "within the prescribed period" to the satisfaction of the court. Thus, establishment of "sufficient cause" is the first ingredient for the purpose of condonation of delay. Insofar, as what is meant by the phrase "*sufficient cause*", neither Section 5 nor the Limitation Act itself provide any guidance on what its constituent elements ought to be. Instead, Section 5 leaves the task of determining appropriate reasons for seeking condonation of delay to judicial interpretation and

exercise of discretion upon the facts and individual circumstances of each case.

**117.** While there is no arithmetical formula, through decades of judicial application, certain yardsticks for judging the sufficiency of cause for condonation of delay have evolved. Mere good cause is not sufficient enough to turn back the clock and allow resuscitation of a claim otherwise barred by delay. The court ought to be cautious while undertaking such an exercise, being circumspect against condoning delay which is attributable to the applicant. Although the actual period of delay might be instructive, it is the explanation for the delay which would be the decisive factor.

**118.** The court must also desist from throwing the baby out with the bathwater. A justice-oriented approach must be prioritised over technicalities, as one motivation underlying such rules is to prevent parties from using dilatory tactics or abusing the judicial process. Pragmatism over pedanticism is therefore sometimes necessary, despite it appearing liberal or magnanimous. The expression "*sufficient cause*" should be given liberal construction so as to advance substantial justice.

**119.** The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice — that being the life-purpose for the existence

of the institution of courts. Despite the liberal approach being adopted in such matters, which was termed justifiable, this Court lamented that the message had not percolated down to all the other courts in the hierarchy and, accordingly, emphasis was laid on the courts adopting a liberal and justice-oriented approach. **[See: *Sheo Raj Singh v. Union of India,* (2023) 10 SCC 531**]

**120.** Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an "explanation" and an "excuse". An "explanation" is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must, however, be taken to distinguish an "explanation" from an "excuse". Although people tend to see "explanation" and "excuse" as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real. **[See: *Sheo Raj Singh v. Union of India,* (2023) 10 SCC 531**]

**121.** This Court in ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Ors,*** reported in **(2013) 12 SCC 649**, after examining a plethora of decisions on what is meant by "*sufficient cause*", summarized its principles as under: -

> *"21. From the aforesaid authorities the principles that can broadly be culled out are:*
>
> *21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.*
>
> *21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.*
>
> *21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*
>
> *21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.*
>
> *21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*
> *21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.*
>
> *21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.*
>
> *21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be*

*attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.*

*21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.*

*21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

*21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.*

*21.12. (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

*21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.*

*22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:*

*22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

*22.2. (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

*22.3. (c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the*

*adjudicatory system should be made as that is the ultimate institutional motto.*

*22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.*

**122.** The exceptional provision of condonation of delay on grounds of "*sufficient cause*" is couched as a manifestation of substantive justice. This Court in ***Pathapati Subba Reddy (Died) by L.Rs.*** **v.** ***Special Deputy Collector (LA)***, reported in **2024 SCC OnLine SC 513**, summarized the principles governing the exceptions imagined under "*sufficient cause*" *vis-à-vis* substantive justice as under: -

"*26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

*(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."*

(Emphasis supplied)

**123.** From above, it is manifest that 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. Its purpose is to empower courts to advance the cause of justice by preventing genuine litigants from being shut out on account of unavoidable delays. At the same time, it is equally clear that the phrase is not a charter for indolence or a device to revive stale claims that the law of limitation otherwise extinguishes.

**124.** 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 of negligence. Sufficiency of cause is to be determined contextually, on the totality of circumstances, with due regard to the conduct of the applicant and the prejudice caused to the opposite party. The

inquiry is not mechanical but principled, resting on the dual pillars of bona fides and diligence.

**125.** The expression "*sufficient cause*" is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control.

**126.** Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim *interest reipublicae ut sit finis litium* and destabilise the certainty that limitation law seeks to secure.

**127.** The expression "*sufficient cause*" must be construed in a manner that advances substantial justice while preserving the discipline of limitation. The courts are not to be swayed by sympathy or technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, courts have leaned towards condonation. Where negligence, want of good faith, or a casual approach is discernible, condonation has been refused.

**i. Length of the delay may be instructive but not determinative.**

**128.** When it comes to condonation of delay, the length of delay is immaterial, and what matters is the acceptability of the explanation. A short delay may still warrant dismissal if unsupported by sufficient cause, whereas even a long delay may be condoned if justified by circumstances demonstrating bona fides.

**129.** Delay by itself is not inherently indicative of negligence. In certain cases, unavoidable circumstances such as illness, fraud, miscommunication, or bona fide mistake may stretch over long periods, yet remain excusable if they are explained with candour and supported by material. Conversely, an unexplained delay of even a few days may reveal inaction or deliberate disregard of statutory timelines, and therefore disentitle the party to indulgence.

**130.** The quantum of delay has no direct nexus in law with sufficiency of the cause. The law are independent and diverse factors. Hence the extent of delay should not determine whether the cause is sufficient or not. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the criterion. The criterion for condoning the delay is sufficiency of reason and not the length of the delay.

**131.** The decisive factor is the adequacy of the cause shown, not the length of delay. What is critical is whether the party seeking condonation acted with reasonable diligence during the prescribed period and whether the reasons advanced demonstrate a genuine inability to file within time. Thus, the test is qualitative rather than quantitative.

**132.** This is not to say that the length of delay is irrelevant. A long delay naturally casts a heavier burden on the applicant to furnish cogent, credible, and convincing explanations. The proof required becomes stricter in proportion to the delay. The longer the time elapsed, the stronger the justification that must be put forth. Hence, length is instructive in determining the degree of scrutiny, but it is not determinative of the outcome.

**133.** The length of the delay functions as a contextual indicator but not a determinative factor. It alerts the court to the degree of rigour required in examining the explanation, yet the ultimate focus remains on whether "sufficient cause" has been shown. The doctrine thereby preserves both the integrity of statutory timelines and the imperative of doing justice in deserving cases.

**134.** Thus, in exercising discretion under Section 5 of the Limitation Act the courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is

of a few days. Whereas in the former case the consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case, no such consideration may arise and such a case deserves a liberal approach. No hard-and-fast rule can be laid down in this regard. The court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression "sufficient cause", the principle of advancing substantial justice is of prime importance.

**ii. Technical Considerations vis-à-vis Substantive Justice.**

**135.** In construing "sufficient cause" it must be borne in mind that rules of procedure are handmaids of justice. Procedural rigidity should not become an instrument of injustice. In the context of Section 5 of the Limitation Act, this balance assumes special significance. Courts have repeatedly underscored that while limitation provisions are founded on sound principles of finality and certainty, their application cannot be divorced from the overarching objective of ensuring that litigants are not shut out from the doors of justice merely on account of technicalities.

**136.** When technical considerations of limitation conflict with the imperative of substantial justice, the latter should ordinarily prevail. Rules of limitation are not designed to destroy the rights of parties but to prevent inordinate

delay in seeking remedies. Thus, the interpretation of "sufficient cause" must be liberal and purposive, aimed at advancing the cause of justice rather than defeating it. This is why the courts, while construing applications for condonation of delay, emphasize the bona fides of the applicant over the sheer arithmetical length of the delay.

**137.** Where strict adherence to these rules results in injustice, the Court is duty-bound to apply a liberal interpretation of "sufficient cause" so as to balance technical requirements with the demands of justice. A litigant does not stand to benefit by lodging an appeal late, and therefore, a pragmatic and justice-oriented approach must inform the judicial discretion under Section 5. This decision continues to be the most frequently cited authority for the proposition that the judiciary should incline towards justice rather than technicality. Therefore, when courts interpret "sufficient cause," they are expected to exercise discretion in a manner that fosters justice, fairness, and equity, keeping in mind the realities of litigation.

**138.** When a Court of Law deals with an application to condone the delay filed under Section 5 of the Limitation Act, such application will have to be generally viewed in a liberal and lenient way to do substantial justice between the parties. Section 5 of the Limitation Act must be liberally construed and applied so as to advance substantial justice. It is undoubtedly true that a justice oriented approach is necessary while deciding application

under Section 5 of Limitation. However, it cannot be said that in every case delay must necessarily be condoned. It is a condition precedent for Section 5 of the Limitation Act that there must be a sufficient reason for condoning the delay.

**139.** However, while substantial justice must be advanced, the law of limitation is equally binding, and "sufficient cause" must be shown in substance, not in empty form. This ensures that the balance between justice and certainty is not skewed in favour of unmerited litigants.

**140.** However, at the same time, the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether "sufficient cause" has been demonstrated for not filing the appeal or proceeding within the prescribed period of limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay.

**141.** Test of "sufficient cause" cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain.

**142.** Another practical reason why merits must not be considered at the stage of delay condonation is that it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. This ensures that the ultimate adjudication of rights occurs in a neutral and unprejudiced setting.

**143.** The law of limitation is meant to apply uniformly across cases, regardless of the intrinsic strength or weakness of the claims involved. To import merits into condonation proceedings would effectively dilute this uniformity.

## C. <u>In what circumstances can the exercise of discretion to condone the delay be interfered with</u>?

**144.** One another submission that was canvassed on behalf of the respondents herein is that, where the court of first instance was satisfied as to the existence of "*sufficient cause*" for not filing the appeal or application, as the case may be, during the prescribed period of time and, on that basis, exercised its discretion in condoning the delay, then, in such cases, a court siting in appeal ought not to ordinarily interfere with the subjective view and prerogative of the court below in condoning the delay.

**145.** Ms. Suri, learned Senior Counsel appearing for the respondents, submitted that, in the present case, the High Court, whilst passing the impugned judgment and order, was satisfied with the explanation given by the respondents herein as to the existence of a sufficient cause which had prevented them from filing the appeal within the period of limitation, and that it was only after due consideration of all the material on record that the High Court proceeded to exercise its discretion to condone the delay in the filing thereof. She would submit that once the High Court, in its wisdom had, found the case at hand to be a fit one for the exercise of its discretion in condoning the delay, and had accordingly passed such an order, then this

Court ought to refrain from interfering with the subjective view taken by the High Court.

**146.** In this regard, the learned Senior Counsel drew are attention to three decisions of this Court in ***Sheo Raj Singh (D) Tr. Lrs. v. Union of India***, reported in **(2023) 10 SCC 531**, ***Manjunath Anandappa urf. Shivappa Hanasi v. Tammanasa & Ors.*** reported in **(2003) 10 SCC 390** and ***Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha*** reported in **(1980) 2 SCC 593**.

**147.** The expression "*may be admitted*" vests in the court a discretion, the exercise of which is pre-conditioned to the proof of a "*sufficient cause*" for the failure to file the appeal or application, as the case may be, within the prescribed period of limitation. It enables a court to either admit or reject any appeal or application, for being barred by limitation, even if "*sufficient cause*" is shown to its satisfaction. The idea behind vesting the courts with such discretion is to ensure that the power to condone any delay in the filing of an appeal or application, as the case may be, is exercised only to advance substantial justice, where no prejudice or injustice would meted from such delay being condoned. Condonation of delay is not a matter of right but a discretion of the court.

**148.** The recourse to Section 5 of the Limitation Act for condonation of delay is not an *inter-parte* proceeding. Condonation of delay essentially is a question that the court has to decide on the basis of the material on records and the relevant law. The role of the parties is only confined to brining on record the relevant material to assist the court in exercising its discretion. Unlike adversarial proceedings in a *lis* where competing claims and counterclaims of parties are adjudicated, the adjudication under Section 5 is primarily inquisitorial in nature, with the court being called upon to assess, on an objective consideration of facts and circumstances, whether the explanation offered is sufficient and reasonable so as to warrant an extension of time, from the material it has relied upon for furnishing such explanation.

**149.** The Privy Council in ***Krishnasami Panikondar v. S.R.M.A.R. Ramasami Chettiar*** reported in **1917 SCC OnLine PC 70** held that an order of a court excusing the delay is not final or precluded from being questioned, and that it is always open to reconsideration at the instance of the party so affected by it. The relevant observations read as under: -

> *"It has been argued that the admission of the appeal by Sankaran Nair, J., was final, and that the Division Bench had no jurisdiction at the hearing of the appeal to reconsider the question whether the delay was excusable. But this order of admission was made not only in the absence of Ramasami Chettiar, the contesting Respondent, but without notice to him. And yet in terms it purported to deprive him of a valuable right, for it put in peril the finality of the decision in his favour, so that*

*to preclude him from questioning its propriety would amount to a denial of justice. It must, therefore, in common fairness be regarded as a tacit term of an order like the present that though unqualified in expression it should be open to reconsideration at the instance of the party affected; and this view is sanctioned by the practice of the Courts in India."*

(Emphasis supplied)

**150.** The aforesaid observations came to be endorsed by a Five judge-Bench of this Court in ***Dinabandhu Sahu*** (supra). The relevant observations read as under: -

*8. [...] In this respect, the position under the proviso to Section 85 is materially different from that under Section 5 of the Limitation Act, under which an order excusing delay is not final, and is liable to be questioned by the respondent at a later stage. (Vide the decision of the Privy Council in Krishnasami Pandikondar v. Ramasami Chettiar.)*

**151.** In ***Shanti Prasad Gupta v. Dy. Director of Consolidation*** reported in **1981 Supp SCC 73**, this Court held since the issue, whether there is a sufficient cause or not is a question of fact, where an order has been made under Section 5 of the Limitation Act by the lower court in the exercise of its discretion allowing or refusing an application to extend time, it cannot be interfered with in revision, unless the lower court has acted with material irregularity or contrary to law or has come to that conclusion on no evidence. The relevant observations read as under: -

"*3. We find that Contention (1) is not correct. The order against which Gian Chand Bansari went in revision before the Director did not fall within the purview of Section 9-A of the U.P.*

*Consolidation of Holdings Act and, as such, was not appealable under Section 11 of that Act. We however find a good deal of force in the second contention of the appellant. Whether or not there is sufficient cause for condonation of delay, is a question of fact dependent upon the facts and circumstances of a particular case, and the proposition is well-settled that when order has been made under Section 5 of the Limitation Act by the lower court in the exercise of its discretion allowing or refusing an application to extend time, it cannot be interfered with in revision, unless the lower court has acted with material irregularity or contrary to law or has come to that conclusion on no evidence. [...]"*

(Emphasis supplied)

**152.** This Court in ***N. Balakrishnan*** (supra) held that once the court below accepts the explanation of delay as sufficient, the superior court should not disturb such finding unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. However, where the first court refuses to condone the delay, there the superior court would be free to consider the cause shown for the delay afresh to come to its own finding de hors the conclusion of the court below. The relevant observations read as under: -

*"9. It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly*

*untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.*

*10. The reason for such a different stance is thus:*

> *"The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.""*

(Emphasis supplied)

**153.** In ***Mithailal Dalsangar Singh v. Annabai Devram Kini*** reported in **(2003) 10 SCC 691** this Court held that the finding of the court below on the question of availability of "*sufficient cause*" ought to be given weight and should not normally be interfered with in superior jurisdiction. The relevant observations read as under: -

> *"9. The courts have to adopt a justice-oriented approach dictated by the uppermost consideration that ordinarily a litigant ought not to be denied an opportunity of having a lis determined on merits unless he has, by gross negligence, deliberate inaction or something akin to misconduct, disentitled himself from seeking the indulgence of the court. The opinion of the trial Judge allowing a prayer for setting aside abatement and his finding on the question of availability of "sufficient cause" within the meaning of sub-rule (2) of Rule 9 of Order 22 and of Section 5 of the Limitation Act, 1963 deserves to be given weight, and once arrived at would not normally be interfered with by superior jurisdiction."*

(Emphasis supplied)

**154.** A coordinate Bench of this Court in a recent decision of ***Sheo Raj Singh*** (supra) speaking through Hon'ble Justice Dipankar Datta, held that there exists a fine distinction between when a court is hearing application for condonation of delay and when it is sitting in appeal over the exercise of discretion granting condonation of delay. In the former, the only material question is whether the delay be condoned or not, whereas in the latter the question is confined to if there has been proper exercise of discretion in favour of grant of such prayer. It further cautioned that a court of appeal should not ordinarily interfere with the discretion exercised by the courts below. The relevant observations read as under: -

> *"33. Be that as it may, it is important to bear in mind that we are not hearing an application for condonation of delay but sitting in appeal over a discretionary order of the High Court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation would be the question. Law is fairly well-settled that "a court of appeal should not ordinarily interfere with the discretion exercised by the courts below". If any authority is required, we can profitably refer to the decision in Manjunath Anandappa v. Tammanasa, which in turn relied on the decision in Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha where it has been held that:*
>
> > *"an appellate power interferes not when the order appealed is not right but only when it is clearly wrong"."*
>
> (Emphasis supplied)

**155.** In ***Manjunath Anandappa*** (supra) this Court reiterated that a court of appeal should not ordinarily interfere with the discretion exercised by the courts below. The relevant observations read as under: -

> *"36. It is now also well settled that a court of appeal should not ordinarily interfere with the discretion exercised by the courts below.*
>
> *37. In U.P. Coop. Federation Ltd. v. Sunder Bros., the law is stated in the following terms:*
>
> > *"8. It is well established that where the discretion vested in the court under Section 34 of the Indian Arbitration Act has been exercised by the lower court the appellate court should be slow to interfere with the exercise of that discretion. In dealing with the matter raised before it at the appellate stage the appellate court would normally not be justified in interfering with the exercise of the discretion under appeal solely on the ground that if it had considered the matter at the trial stage it may have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. As is often said, it is ordinarily not open to the appellate court to substitute its own exercise of discretion for that of the trial Judge; but if it appears to the appellate court that in exercising its discretion the trial court has acted unreasonably or capriciously or has ignored relevant facts then it would certainly be open to the appellate court to interfere with the trial court's exercise of discretion. This principle is well established; but, as has been observed by Viscount Simon, L.C., in Charles Osenton & Co. v. Johnston*
> >
> > > *'The law as to the reversal by a court of appeal of an order made by a Judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well-settled principles in an individual case.'"*

(Emphasis supplied)

**156.** In ***Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha*** reported in **(1980) 2 SCC 593**, this Court speaking through the inimitable V.R. Krishna Iyer J. (as his Lordship then was), observed that "*an appellate power interferes when the order appealed is not right but only when it is clearly wrong*". The erudite observations read as under: -

> *"73. While the remedy under Article 226 is extraordinary and is of Anglo-Saxon vintage, it is not a carbon copy of English processes. Article 226 is a sparing surgery but the lancet operates where injustice suppurates. While traditional restraints like availability of alternative remedy hold back the court, and judicial power should not ordinarily rush in where the other two branches fear to tread, judicial daring is not daunted where glaring injustice demands even affirmative action. The wide words of Article 226 are designed for service of the lowly numbers in their grievances if the subject belongs to the court's province and the remedy is appropriate to the judicial process. There is a native hue about Article 226, without being anglophilic or anglophobic in attitude. Viewed from this jurisprudential perspective, we have to be cautious both in not overstepping as if Article 226 were as large as an appeal and not failing to intervene where a grave error has crept in. Moreover, we sit here in appeal over the High Court's judgment. And an appellate power interferes not when the order appealed is not right but only when it is clearly wrong. The difference is real, though fine.*
>
> (Emphasis supplied)

**157.** However, the aforesaid observations must not be viewed in isolation from the immediately preceding paragraph. The observations therein are significant, for a holistic understanding. This Court in ***Gujarat Steel Tubes***

(supra) whilst holding the aforesaid, elaborated on when a court in appellate jurisdiction may be compelled to interfere with the order of a court below. It observed that where such order was vitiated by the fundamental flaws of gross miscarriage of Justice, absence of legal evidence, perverse misreading of facts, serious errors of law on the face of the order, jurisdictional failure, and any other defects of like nature, the appellate court would be justified to intervene. The relevant observations read as under: -

> *"72. Once we assume that the jurisdiction of the arbitrator to enquire into the alleged misconduct was exercised, was there any ground under Article 226 of the Constitution to demolish that holding? Every wrong order cannot be righted merely because it is wrong. It can be quashed only if it is vitiated by the fundamental flaws of gross miscarriage of Justice, absence of legal evidence, perverse misreading of facts, serious errors of law on the face of the order, jurisdictional failure and the like."*
>
> (Emphasis supplied)

**158.** Deciding whether there was any proper and judicious exercise of discretion to condone the delay or not, is a slippery slope. Despite lengthy cautionary tales from this Court of judicial restraint in wantonly interfering with the subjective view of a court below, having been preached for time immemorial, it is plausible for an appellate court to falter in adhering to the same.

**159.** We are in complete agreement with the decision of this Court in ***Sheo Raj Singh*** (supra) as regards the significance of the distinction in scope when a

court is hearing application for condonation of delay and when it is sitting in appeal over the exercise of discretion granting condonation of delay.

**160.** It is no more *res integra* that where a court below refused to condone the delay, then the court sitting in appeal would be entitled to consider if delay should be condoned or not afresh, notwithstanding the decision of the lower court. However, some weight and importance would have to be given to the reasons which swayed the court below from refusing to exercise its discretion. Because refusal to condone the delay is also, nevertheless an exercise of discretion to not exercise discretion. However, the scope, available to the appellate court to substitute its findings in such scenarios would enjoy a considerable degree of play in its joints.

**161.** However, where a court is sitting in appeal over the exercise of discretion granting condonation of delay, it is only required to see if there was a proper exercise of discretion by the courts below and if the same was for advancing the cause of justice. But the question that we ask ourselves is, what is meant by "proper exercise of discretion"? What does the enquiry into the propriety of discretion encompass?

**162.** Proper exercise of discretion in condoning the delay connotes that the such exercise was not improper or unwarranted. This as a naturally corollary would open up an inquiry into the fundamental constituents or ingredients

necessary for the exercise of power to condone delay. As such it would require the appellate court to see if the sufficient cause had occasioned during the prescribed period of limitation, if the explanation offered inspires confidence, if the court below in construing "*sufficient cause*" had ventured into extraneous considerations. Likewise, where a lower court's decision in accepting the "*sufficient cause*" is either contrary to the law or suffers from any material irregularity or is vulnerable for lack of evidence, then such an order condoning the delay would be a fit one to be interfered with by the appellate court.

**163.** Thus, a two pronged inquiry is required by the appellate court; *first,* into the existence of a "*sufficient cause*" and *secondly,* into the exercise of discretion itself, where the first test is satisfied.

**164.** This would necessarily entail the appellate court to look into the material on record, the contents of the explanation that had swayed the mind of the court below. However, the extent to which the court sitting in appeal is to look into the same is confined to ascertaining whether the view taken by the court below is forthcoming and plausible or not. The observations "*but if it appears to the appellate court that in exercising its discretion the trial court has acted unreasonably or capriciously or has ignored relevant facts then it would certainly be open to the appellate court to interfere with the trial court's exercise of discretion*" made in ***Manjunath Anandappa*** (supra)

bolster this view. Thus, the appellate court must see if the material on record inspires confidence for accepting the plea of "*sufficient cause*" and the explanation offered in that regard for the entirety of the period from when the limitation began till the actual date of filing. If the lower court had accepted the explanation capriciously or without proper legal material to support its decision, then the same may be interfered with.

**165.** However, we again at the cost of repetition, make it clear, that the entire purpose this enquiry is only to see if the view that was arrived at by the court below could have been taken by it, from the material on record, had it been in *seisin* of the matter as a court of first instance, or had the court below refused the prayer for condonation of delay. Once the appellate court is of the opinion that the view arrived at by the court of below is plausible and not contrary to the law, it would not be open for it to interfere with the same, merely because another view is also equally plausible.

**166.** The role of the appellate court is limited to assessing the material on record, and to satisfy itself that the order passed by the court below is not vitiated due to any material irregularity, want of evidence, extraneous considerations, failure to take into consideration any relevant fact, or being contrary to the law of the land, which inevitably includes if the ingredients of Section 5 of the Limitation Act were met or not. It is to ensure that a plea

of "*sufficient cause*" is not accepted superficially merely because some explanation was offered by looking into the material that constituted such sufficient cause.

**167.** Once, the material on record lend support to the view arrived at by the court below, the enquiry of the appellate court into the material on record ends. Thereafter, what remains to be seen is only the exercise of discretion by the court below, which warrants a careful and delicate approach from the appellate court. This is because acceptance of the explanation as a sufficient cause is the result of a positive exercise of discretion and normally the appellate court should not disturb such exercise of discretion, unless the exercise of discretion was on wholly waterable grounds or arbitrary or perverse.

**168.** In this regard, what the appellate court has to see is that the discretion that was exercised by the court below, was not done in a mechanical or routine manner and without any application of mind as to whether such an exercise would advance the cause of justice or lead to miscarriage of justice. The exercise of discretion must have been in a reasonable manner, and should not have resulted in any grave prejudice to the other side. The test is to is if the exercise of discretion was patently wrong or not, and ordinarily the appellate court will be slow and circumspect to substitute its own opinion on the exercise of discretion, once it is satisfied that the view of the court

below in accepting the plea of sufficient cause was plausible. If it is found that in exercising the discretion to condone the delay, the court below had lost sight of a general rule or misdirected itself as to the applicability of the rule, then it will be deemed to have misdirected itself as to the law applicable to the case, and the appellate court will interfere and remit the case or itself exercise the discretion.

**169.** To sum up, the appellate court cannot embark upon an inquiry to enter a finding based on its likes or dislikes. The true test is to see, if it had been up to the appellate court, could the delay have been plausibly condoned for the same reason that was assigned by the court below, by looking into the material on record to see if the ingredients of Section 5 of the Limitation Act were fulfilled or not. If the ingredients of the provision is found to not have been fulfilled, the appellate court can and ought to interfere with the order of the court below.

**170.** However, if the aforesaid is answered in an affirmative, all that remains to be seen is that the discretion that was exercised in condoning the delay was not done mechanically, arbitrarily or capriciously, and was exercised for the purpose of advancing the cause of justice. Only where the exercise of discretion was clearly wrong, would the court sitting in appeal, interfere with the same.

## D. <u>There is no room for largesse for State lethargy and leisure under Section 5 of the Limitation Act</u>.

**171.** The next submission that was advanced on behalf of the respondents herein is that, in matters pertaining to condonation of delay, a certain degree of leeway ought to be accorded to the Government and Public Authorities owing to the innate complexities in the way the State apparatus functions. The argument is that due to the inherent bureaucracy and involvement of various departments of different hierarchy which are endemic to the functioning of the State and its instrumentalities, unavoidable delays tend to crop up even without any deliberate intention, and thus, the courts ought to be pragmatic and liberal where the State or any of its instrumentalities is seeking condonation of delay in the filing of the appeal or application, as the case may be. In this regard, reliance was placed on the decision of this Court in ***G. Ramegowda, Major & Ors. v. Special Land Acquisition Officer, Bangalore*** reported in **(1988) 2 SCC 142**.

### i. View on the subject of Condonation of Delay prior to the decision of Postmaster General.

**172.** Prior to the landmark decision of this Court in ***Postmaster General v. Living Media India Ltd.*****,** reported in **(2012) 3 SCC 563**, the practice that

was in place consistently leaned in favour of affording a degree of latitude to the State and its instrumentalities in matters of condonation of delay. The rationale underlying such an approach was the recognition of the peculiarities of governmental functioning, which, unlike private litigants, is impersonal, heavily layered, and subject to multiple levels of procedural clearances before culminating into a decision.

**173.** As early as in ***Special Tehsildar, Land Acquisition v. K.V. Ayisumma***, reported in **(1996) 10 SCC 634**, a two-Judge Bench of this Court emphasized that since the State represents the collective cause of the public, any delay on its part ought not to be viewed through the same lens as that of a private party. It observed that adoption of a strict standard of proof in respect of the State or its instrumentalities, where no one takes personal responsibility in processing the matters expeditiously, would lead to grave miscarriage of public justice. Thus, it held that in such circumstances, the correct approach to be adopted is to be pragmatic and condone the delay without insisting upon explaining every day's delay. The relevant observations read as under: -

> *"2. It is now settled law that when the delay was occasioned at the behest of the Government, it would be very difficult to explain the day-to-day delay. The transaction of the business of the Government was being done leisurely by officers who had no or evince no personal interest at different levels. No one takes personal responsibility in processing the matters expeditiously. As a fact at several stages, they take their own time to reach a*

*decision. Even in spite of pointing at the delay, they do not take expeditious action for ultimate decision in filing the appeal. This case is one of such instances. It is true that Section 5 of the Limitation Act envisages explanation of the delay to the satisfaction of the court and in matters of Limitation Act made no distinction between the State and the citizen. Nonetheless adoption of strict standard of proof leads to grave miscarriage of public justice. It would result in public mischief by skilful management of delay in the process of filing the appeal. The approach of the Court should be pragmatic but not pedantic. Under those circumstances, the Subordinate Judge has rightly adopted correct approach and had condoned the delay without insisting upon explaining every day's delay in filing the review application in the light of the law laid down by this Court. The High Court was not right in setting aside the order. Delay was rightly condoned."*

(Emphasis supplied)

**174.** Likewise, in ***State of Haryana v. Chandra Mani***, reported in **(1996) 3 SCC 132**, this Court reiterated that some latitude must be shown to the State and its instrumentalities in matters of condonation of delay. It observed that "*the State represents the collective cause of the community*" and so a pragmatic view ought to be adopted while dealing with applications for condonation of delay filed by public authorities. It further emphasised that technicalities of limitation should not result in grave injustice to the public interest, especially where the delay was not tainted by mala fides. The relevant observations read as under: -

*"11. It is notorious and common knowledge that delay in more than 60 per cent of the cases filed in this Court — be it by private party or the State — are barred by limitation and this Court generally adopts liberal approach in condonation of delay finding somewhat sufficient cause to decide the appeal on merits. It is equally common knowledge that litigants including the State*

*are accorded the same treatment and the law is administered in an even-handed manner. When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay — intentional or otherwise — is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-à-vis private litigant could be laid to prove strict standards of sufficient cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a decision or give appropriate permission for settlement. In the event of decision to file appeal needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while State is an impersonal machinery working through its officers or servants. Considered from this perspective, it must be held that the delay of 109 days in this case has been explained and that it is a fit case for condonation of the delay.*

(Emphasis supplied)

**175.** The above view came to be affirmed in the decision of ***State of Nagaland v. Lipok AO***, reported in **(2005) 3 SCC 752**, wherein this Court acknowledged the bureaucratic realities that often account for delay in governmental decision-making. It held that deference must be shown to the fact that governmental actions are "*conducted by officers who cannot act on their own but must obtain approvals at different levels*," and thus, the element of delay is almost "*inbuilt in the governmental decision-making process*." Accordingly, it held that factors which are peculiar to and characteristic of the functioning of the governmental conditions requires adoption of pragmatic and justice-oriented approach by the courts in matters pertaining to condonation of delay. The relevant observations read as under: -

> *"13. Experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. The State which represents collective cause of the community, does not deserve a litigant-non-grata status. The courts, therefore, have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression of sufficient cause. Merit is preferred to scuttle a decision on merits in turning down the case on technicalities of delay in presenting the appeal. Delay as accordingly condoned, the order was set aside and the matter was remitted to the High Court for disposal on merits after affording opportunity of hearing to the parties. In Prabha v. Ram Parkash Kalra [1987*

*Supp SCC 339] this Court had held that the court should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. The appeal was allowed, the delay was condoned and the matter was remitted for expeditious disposal in accordance with law.*

*14. In G. Ramegowda v. Spl. Land Acquisition Officer [(1988) 2 SCC 142] it was held that no general principle saving the party from all mistakes of its counsel could be laid. The expression "sufficient cause" must receive a liberal construction so as to advance substantial justice and generally delays in preferring the appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of delay. In litigations to which Government is a party, there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected, but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts, omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it. It was, therefore, held that in assessing what constitutes sufficient cause for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the Government. Government decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have "a little play at the joints". Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put Government and private parties on the same footing in all*

*respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process. The delay of over one year was accordingly condoned.*

*15. It is axiomatic that decisions are taken by officers/agencies proverbially at a slow pace and encumbered process of pushing the files from table to table and keeping it on the table for considerable time causing delay — intentional or otherwise — is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in a justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-à-vis private litigant could be laid to prove strict standards of sufficient cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a decision or give appropriate permission for settlement. In the event of decision to file appeal, needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while the State is an impersonal machinery working through its officers or servants.*

*16. The above position was highlighted in State of Haryana v. Chandra Mani [(1996) 3 SCC 132] and Special Tehsildar, Land Acquisition v. K.V. Ayisumma [(1996) 10 SCC 634]. It was noted that adoption of strict standard of proof sometimes fails to*

*protract (sic) public justice, and it would result in public mischief by skilful management of delay in the process of filing an appeal.*

*17. When the factual background is considered in the light of legal principles as noted above, the inevitable conclusion is that the delay of 57 days deserved condonation. Therefore, the order of the High Court refusing to condone the delay is set aside."*

(Emphasis supplied)

**176.** In ***Indian Oil Corpn.*** (supra) this Court held that although Section 5 of the Limitation Act makes no distinction between the State and a private litigant insofar as the explanation of delay to the satisfaction of the court is concerned, yet adoption of a strict standard of proof in case of the Government, which is dependent on the actions of its officials, who often have no personal interest in its cause, may lead to grave miscarriage of justice and thus, certain amount of latitude may be permitted to them. The relevant observations read as under: -

*"9. In State (NCT of Delhi) v. Ahmed Jaan [(2008) 14 SCC 582 : (2009) 2 SCC (Cri) 864] while observing that although 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, highlighted the following observations of this Court in State of Nagaland v. Lipok Ao [(2005) 3 SCC 752 : 2005 SCC (Cri) 906] : (Ahmed Jaan case [(2008) 14 SCC 582 : (2009) 2 SCC (Cri) 864] , SCC p. 588, para 11)*

> *"11. '... 15. It is axiomatic that decisions are taken by officers/agencies proverbially at a slow pace and encumbered process of pushing the files from table to table and keeping it on the table for considerable time causing delay—intentional or otherwise—is a routine.*

*Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in a justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process.' [ As observed in State of Nagaland v. Lipok Ao, (2005) 3 SCC 752, p. 760, para 15.]"*

*(See also Tehsildar, Land Acquisition v. K.V. Ayisumma [(1996) 10 SCC 634] , State of Haryana v. Chandra Mani [(1996) 3 SCC 132] .)*

*10. It is manifest that though Section 5 of the Limitation Act, 1963 envisages the explanation of delay to the satisfaction of the court, and makes no distinction between the State and the citizen, nonetheless adoption of a strict standard of proof in case of the Government, which is dependent on the actions of its officials, who often do not have any personal interest in its transactions, may lead to grave miscarriage of justice and therefore, certain amount of latitude is permissible in such cases*."

(Emphasis supplied)

**177.** In ***G. Ramegowda, Major*** (supra), this Court observed that public interest suffers if appeals brought by the Government are thrown out due to the lapse of the limitation period. Accordingly, it held that a certain amount of latitude towards the Government is, therefore, not impermissible, for the purpose of condonation of delay. The relevant observations made therein read as under: -

*"15. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.*

*16. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffeed owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it.*

*17. Therefore, in assessing what, in a particular case, constitutes "sufficient cause" for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have "a little play at the joints". Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. [...]*"

(Emphasis supplied)

**178.** What can be discerned from the aforesaid is that, the position of law, as it originally stood, was that there existed a marked difference in a case where the delay was attributable to a private litigant and a case where the delay was occasioned on part of the State or its instrumentalities. This distinction

was founded on the impersonal character of public authorities, where no one public officer has any vested individual interest in diligently espousing the State's cause. This resultantly rendered the actions of the State and its instrumentalities qualitatively different from those of private individuals who are motivated to act in their own cause.

**179.** 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.

**180.** One another reason why this distinction assumed significances was for the reason that, if the cause espoused by the Government is non-suited merely on the ground of delay, the ultimate prejudice is not restricted just to the Government as a litigant. The real brunt of such dismissal falls upon the public at large, for it is the public exchequer and, consequently, public interest that stand to suffer. 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.

**181.** It is in light of the aforesaid, the understanding which prevailed was that, for the purpose of Section 5 of the Limitation Act, in cases where condonation of delay is sought by the State or any of its instrumentalities, there the courts should not apply the standard of strict scrutiny that is ordinarily applied to private parties. Instead, a pragmatic approach must be adopted that acknowledges the practical realities of governmental functioning and accords some latitude to the State, consistent with the maxim; '*lex non cogit ad impossibilia'* i.e., the law does not compel the impossible. The courts ought to remain mindful of the proverbially slow pace at which governmental decisions often move, weighed down by procedural encumbrances and institutional delays. A certain degree of latitude, therefore, must be extended to the State and its instrumentalities in matters concerning the condonation of delay, lest the rigidity of limitation operate to the detriment of public interest.

**182.** The ultimate test that was evolved whether substantial justice would suffer if condonation were denied. Thus, the balance was tilted in favour of condonation when the litigant was the State, as denial could prejudice public interest, frustrate legitimate claims, or impact the public exchequer. The jurisprudence therefore evolved to give primacy to *public interest* over *procedural rigidity*.

**183.** However, the aforesaid understanding was never intended to be accepted as an immutable proposition or treated as gospel truth. This is particularly evident from a catena of other decisions of this Court that were rendered around the same time.

**184.** Long before the decision of ***K.V. Ayisumma*** (supra) this Court in ***State of W.B. v. Administrator, Howrah Municipality*** reported in **(1972) 1 SCC 366** had observed that irrespective of whether the litigant is a Government entity or a private person, the provisions of law applicable are the same and as such same consideration that is shown by courts to a private party when he claims the protection of Section 5 of the Limitation Act should also be adopted towards the State. The expression "*sufficient cause*" cannot be construed too liberally, merely because the party is the Government and the courts are not bound to accept readily whatever has been stated on behalf of the State to explain the delay. The relevant observations read as under: -

*"26. The legal position when a question arises under Section 5 of the Limitation Act is fairly well-settled. It is not possible to lay down precisely as to what facts or matters would constitute "sufficient cause" under Section 5 of the Limitation Act. But it may be safely stated that the delay in filing an appeal should not have been for reasons which indicate the party's negligence in not taking necessary steps, which he could have or should have taken. Here again, what would be such necessary steps will again depend upon the circumstances of a particular case and each case will have to be decided by the courts on the facts and circumstances of the case. Any observation of an illustrative circumstance or fact will only tend to be a curb on the free exercise of the judicial mind by the Court in determining whether the facts and circumstances of a particular case amount to "sufficient cause" or not. It is needless to emphasise that courts have to use their judicial discretion in the matter soundly in the interest of justice.*

*27. Mr D. Mukherji, learned Counsel for the first respondent, is certainly well-founded in his contention that the expression "sufficient cause" cannot be construed too liberally, merely because the party is the Government. It is no doubt true that whether it is a Government or a private party, the provisions of law applicable are the same, unless the statute itself makes any distinction. But it cannot also be gainsaid that the same consideration that will be shown by courts to a private party when he claims the protection of Section 5 of the Limitation Act should also be available to the State.*

*28. In the case before us, it must be stated in fairness to the learned Solicitor General that he has not contended that the State must be treated differently. On the other hand, his contention is that the reasons given by the appellant, which, according to him will establish "sufficient cause" have not at all been adverted to, much less, considered by the High Court. In our opinion, the contention of the learned Solicitor General is perfectly justified in the circumstances of this case. The High Court, certainly, was not bound to accept readily whatever has been stated on behalf of the State to explain the delay. But, it was the duty of the High Court to have scrutinised the reasons given by the State and considered the same on merits and expressed an opinion, one way or the other. That, unfortunately, is lacking in this case."*

(Emphasis supplied)

**185.** Similarly in ***Lanka Venkateswarlu v. State of A.P.*** reported in **2011 SCC OnLine SC 403** this Court deprecated the High Court in condoning the delay in filing of the appeal therein, that was occasioned not by any unavoidable circumstance, but by the sheer inefficiency and ineptitude of the Government Pleaders concerned, merely because the party seeking condonation happened to be the State. In doing so, this Court observed that concepts such as "liberal approach", "justice oriented approach", "substantial justice" cannot be employed to jettison the substantial law of limitation, particularly in cases where the court concludes that there is no justification for the delay. The relevant observations read as under: -

> *"26. Having recorded the aforesaid conclusions, the High Court proceeded to condone the delay. In our opinion, such a course was not open to the High Court, given the pathetic explanation offered by the respondents in the application seeking condonation of delay. This is especially so in view of the remarks made by the High Court about the delay being caused by the inefficiency and ineptitude of the Government Pleaders.*
>
> *27. The displeasure of the Court is patently apparent from the impugned order itself. In the opening paragraph of the impugned order the High Court has, rather sarcastically, dubbed the Government Pleaders as without merit and ability. Such an insinuation is clearly discernable from the observation that, "This is a classic case, how the learned Government Pleaders appointed on the basis of merit and ability (emphasis supplied) are discharging their function protecting the interest of their clients." Having said so, the High Court, graphically narrated the clear dereliction of duty by the Government Pleaders concerned in not pursuing the appeal before the High Court diligently. The High Court has set out the different stages at which the Government Pleaders had exhibited almost culpable*

*negligence in performance of their duties. The High Court found the justification given by the Government Pleaders to be unacceptable. Twice in the impugned order, it was recorded that in the normal course, the applications would have been thrown out without having a second thought in the matter. Having recorded such conclusions, inexplicably, the High Court proceeds to condone the unconscionable delay.*

*28. We are at a loss to fathom any logic or rationale, which could have impelled the High Court to condone the delay after holding the same to be unjustifiable. The concepts such as "liberal approach", "justice oriented approach", "substantial justice" cannot be employed to jettison the substantial law of limitation. Especially, in cases where the court concludes that there is no justification for the delay. In our opinion, the approach adopted by the High Court tends to show the absence of judicial balance and restraint, which a Judge is required to maintain whilst adjudicating any lis between the parties. We are rather pained to notice that in this case, not being satisfied with the use of mere intemperate language, the High Court resorted to blatant sarcasms."*

(Emphasis supplied)

**186.** It is also not out of place to mention that the observations made by this Court in the decisions of ***Chandra Mani*** (supra) and ***Lipok AO*** (supra) as regards the distinction between the State or any of its instrumentalities vis-à-vis a private individual, for the purpose of Section 5 of the Limitation Act, should be understood in its proper context and true spirit.

**187.** This Court in ***Chandra Mani*** (supra) and ***Lipok AO*** (supra) explicitly held that the State or any of its instrumentalities cannot be put on the same footing as a private party for the purposes of condonation of delay under Section 5 of the Limitation Act. It observed that an individual would always be quick in taking the decision whether he would pursue the remedy by way

of an appeal or application since he is a person legally injured while the State is an impersonal machinery working through its officers or servants, bound by bureaucratic methodology. Thus, it held that although equality before law is sacrosanct, equality does not mandate a refusal to recognise institutional realities.

**188.** However, what is equally significant to note is that the aforesaid observations of this Court in ***Chandra Mani*** (supra) and ***Lipok AO*** (supra) were accompanied by a clear message to the State and all its instrumentalities, that a leisurely and lethargic approach cannot continue for all times to come. It had urged the State and all public authorities to constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts, if not then then endeavour should be made towards arriving at a settlement instead, rather than reagitating the belated causes before the courts. It further observed that where the case requires an appeal or application to be filed, despite the delay, then prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any.

**189.** This was followed by ***Indian Oil Corpn*** (supra) wherein this Court sowed the seeds for the shift in approach of the courts in matters where condonation of delay was sought by the State or its instrumentalities,

inasmuch as it held that the Government and its various functionaries cannot be placed on a pedestal higher than any ordinary litigants, and held that the pragmatic and justice-oriented approach of the courts should be confined only to cases where there was no gross negligence or deliberate inaction on part of the State.

**190.** From the aforesaid, it is manifest that prior to the decision of this Court in ***Postmaster General*** (supra), the approach was characterised by judicial sympathy towards the State and its instrumentalities in matters of condonation of delay, owing to the peculiar nature of their functioning. At the same time, there also existed contrary views such as ***Administrator, Howrah Municipality*** (supra) and ***Lanka Venkateswarlu*** (supra) which held that, irrespective of whether the litigant is a Government entity or a private individual, the provisions of limitation would apply uniformly, and any leeway shown by the courts would also remain the same.

**191.** Even in the decisions of ***Chandra Mani*** (supra) and ***Lipok AO*** (supra) where this Court recognized the necessity for drawing a demarcation between a State or any of its instrumentalities, on the one hand and a private individual, on the other, for the purpose of Section 5 of the Limitation Act, this Court simultaneously observed that such differential treatment cannot continue for all times to come. We say so, because this Court, in the latter parts of the aforesaid decisions, conveyed an emphatic message to all the

States and its instrumentalities to constitute legal cells for the timely scrutiny of its cases, to explore the possibility of settlement instead of pursuing belated claims, wherever possible and to ensure that filing of appeals or application as the case may be, is undertaken expeditiously, and the officer responsible for pursuing such action is made personally liable for lapses, if any.

**ii. Shift in jurisprudence on Condonation of Delay after the decision of Postmaster General.**

**192.** However, despite the aforementioned exhortations of this Court in ***Chandra Mani*** (supra) and ***Lipok AO*** (supra), the same largely remained unheeded as the State and its instrumentalities continued to approach the courts after significant delays under Section 5 of the Limitation Act as though it were a license for indolence and institutional lethargy.

**193.** It was in this backdrop, particularly, the persistent disregard to the laws of limitation by the States and its instrumentalities that compelled this Court in ***Postmaster General*** (supra) to deviate from the earlier practice of extending unwarranted leniency governmental agencies, and to emphasise that the law of limitation binds the State no less than the ordinary litigant. The said decision is in three parts: -

**(i)** ***First,*** This Court held that claims of the Government and its functionaries being an impersonal machinery and inherited with bureaucratic methodology can no longer be accepted to excuse delays under Section 5 of the Limitation Act, in view of the modern technologies being used and available. The relevant observations read as under: -

> *"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)

**(ii)** ***Secondly***, this Court in ***Postmaster General*** (supra) held that it was high time that the practice of condoning delay merely because the litigant is a government entity was done away with, and that delay should be condoned only where there is a reasonable and acceptable explanation for such delay and was accompanied by a *bona fide* effort. It further observed that the usual explanation of bureaucratic inefficiency and of procedural red tapism can no longer be accepted. The relevant observations read as under: -

> *"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 bona fide 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."*
>
> (Emphasis supplied)

**(iii)** ***Lastly,*** as regards the earlier line of thought that if meritorious causes advanced by the State or any of its instrumentalities are dismissed on the ground of delay, the resultant hardship would ultimately fall upon the public exchequer and thereby the public at large, was emphatically rejected by this Court. It held that condonation of delay is a matter of exception and cannot be treated as an anticipated privilege accruing to governmental bodies by reason of their hierarchical structure or bureaucratic methodology. The law shelters

everyone under the same light and should not be swirled for the benefit of a few. Thus, the plea of public interest cannot by any stretch be used as a carte blanche for official inaction. It observed that Government departments, far from being entitled to presumptive indulgence, are in fact under a higher obligation to discharge their functions with diligence, vigilance, and scrupulous regard to limitation. The relevant observations read as under: -

> *"29. [...] 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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."*
>
> (Emphasis supplied)

**194.** In ***Amalendu Kumar Bera v. State of West Bengal*** reported in **(2013) 4 SCC 52** this Court held that although a liberal approach is to be adopted in matters of condonation of delay, such indulgence cannot be extended in cases where the delay is attributable to serious laches or negligence on the part of the State. Delays as a result of the official business of the government requires its pedantic approach from public justice perspective. It held that delay should not be condoned mechanically in the absence of "*sufficient cause*" merely because the party happens to be the State. The relevant observations read as under: -

*"9. We have heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent State. There is no dispute that the expression "sufficient cause" should be considered with pragmatism in justice oriented approach rather than the technical detection of "sufficient cause" for explaining every day's delay. However, it is equally well settled that the courts albeit liberally considered the prayer for condonation of delay but in some cases the court may refuse to condone the delay inasmuch as the Government is not accepted to keep watch whether the contesting respondent further put the matter in motion. The delay in official business requires its pedantic approach from public justice perspective. In a recent decision in Union of India v. Nripen Sarma [(2013) 4 SCC 57 : AIR 2011 SC 1237] the matter came up against the order passed by the High Court condoning the delay in filing the appeal by the appellant Union of India. The High Court refused to condone the delay on the ground that the appellant Union of India took their own sweet time to reach the conclusion whether the judgment should be appealed or not. The High Court also expressed its anguish and distress with the way the State conducts the cases regularly in filing the appeal after the same became operational and barred by limitation.*

*10. In the instant case as noticed above, admittedly earlier objection filed by the respondent State under Section 47 of the Code was dismissed on 17-8-2010. Instead of challenging the said order the respondent State after about one year filed another objection on 15-9-2011 under Section 47 of the Code which was finally rejected by the executing court. It was only after a writ of attachment was issued by the executing court that the respondent preferred a civil revision against the first order dated 17-8-2010 along with a petition for condonation of delay. Curiously enough in the application for condonation of delay no sufficient cause has been shown which would entitle the respondent to get a favourable order for condonation of delay. True it is, that courts should always take liberal approach in the matter of condonation of delay, particularly when the appellant is the State but in a case where there are serious laches and negligence on the part of the State in challenging the decree passed in the suit and affirmed in appeal, the State cannot be allowed to wait to file objection under Section 47 till the decree-holder puts the decree in execution. As noticed above, the decree passed in the year 1967 was in respect of declaration of title and permanent injunction restraining the*

*respondent State from interfering with the possession of the suit property of the appellant-plaintiff. It is evident that when the State tried to interfere with possession the decree-holder had no alternative but to levy the execution case for execution of the decree with regard to interference with possession. In our opinion their delay in filing the execution case cannot be a ground to condone the delay in filing the revision against the order refusing to entertain objection under Section 47 CPC. This aspect of the matter has not been considered by the High Court while deciding the petition for condoning the delay. Merely because the respondent is the State, delay in filing the appeal or revision cannot and shall not be mechanically considered and in the absence of "sufficient cause" delay shall not be condoned."*

(Emphasis supplied)

**195.** The view taken in the decision of ***Postmaster General*** (supra) also came to be endorsed and followed by this Court in ***State of U.P. v. Amar Nath Yadav*** reported in **(2014) 2 SCC 422**.

**196.** In ***State of Madhya Pradesh & Ors. v. Bherulal*** reported in **(2020) 10 SCC 654** this Court expressed its deep anguish over the routine manner in which the State and its instrumentalities continue to seek condonation of delay on the pretext of bureaucratic inefficiencies. It held that the earlier decisions that had afforded a degree of leeway for such inefficiencies no longer reflects the correct position of law insofar as condonation of delay is concerned. This Court held that in view of the decision of ***Postmaster General*** (supra), any delay as a result of unavailability of the documents or the process of arranging for them through bureaucratic process works is no

longer an acceptable reason or excuse to condone such delay. The relevant observations read as under: -

> *"2. We are constrained to pen down a detailed order as it appears that all our counselling to the Government and government authorities has fallen on deaf ears i.e. the Supreme Court of India cannot be a place for the Governments to walk in when they choose ignoring the period of limitation prescribed. We have raised the issue that if the government machinery is so inefficient and incapable of filing appeals/petitions in time, the solution may lie in requesting the legislature to expand the time period for filing limitation for government authorities because of their gross incompetence. That is not so. Till the statute subsists, the appeals/petitions have to be filed as per the statutes prescribed.*
>
> *3. No doubt, some leeway is given for the government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government [LAO v. Katiji]. This position is more than elucidated by the judgment of this Court in Postmaster General v. Living Media (India) Ltd. [...]*
>
> *4. A reading of the aforesaid application shows that the reason for such an inordinate delay is stated to be only "due to unavailability of the documents and the process of arranging the documents". In para 4, a reference has been made to "bureaucratic process works, it is inadvertent that delay occurs".*
>
> *xxx xxx xxx*
>
> *6. We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as "certificate cases". The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no*

*improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.*

(Emphasis supplied)

**197.** This Court in ***Bherulal*** (supra) further cautioned that where any public authority persists in approaching the courts for condonation of delay on such feeble and untenable grounds would not only be denied the indulgence of condonation but would also be imposed with costs for wastage of judicial time. The relevant observations read as under: -

*7. We are thus, constrained to send a signal and we propose to do in all matters today, where there are such inordinate delays that the Government or State authorities coming before us must pay for wastage of judicial time which has its own value. Such costs can be recovered from the officers responsible.*

(Emphasis supplied)

**198.** This Court in ***University of Delhi v. Union of India***, reported in **(2020) 13 SCC 745** held that consideration for condonation of delay under Section 5 of the Limitation Act does not and cannot vary depending on the identity or status of the party, whether it be the Government, a public body, or a private litigant, so as to apply a different yardstick. The ultimate consideration

should be to render even-handed justice to the parties, irrespective of their status. Furthermore, any explanation which betrays a casual or indifferent approach on the part of the Government or its instrumentalities, demonstrating a lack of regard for the mandate of limitation, cannot be excused or condoned merely by invoking the impersonal character of bureaucratic decision-making. The relevant observations read as under: -

> *"23. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party, namely, the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even-handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the courts based on the fact situation. In Katiji [LAO v. Katiji, (1987) 2 SCC 107] the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight of is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800%.*
>
> *24. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public body. The entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware*

*of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified."*

(Emphasis supplied)

**199.** A similar view was iterated in ***Government of Maharashtra (Water Resources Department) represented by Executive Engineer v. Borse Brothers Engineers and Contractors Pvt. Ltd.*** reported in **(2021) 6 SCC 460** wherein this Court placing reliance on ***Postmaster General*** (supra) held that a different yardstick for condonation of delay cannot be laid down merely because the Government is involved. The relevant observations read as under: -

*"59. Likewise, merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in Postmaster General v. Living Media (India) Ltd."*

**200.** In ***State of Odisha & Ors. v. Sunanda Mahakuda*** reported in **(2021) 11 SCC 560** this Court held that the leeway which was earlier enjoyed by the State and its instrumentalities on account of bureaucratic inefficiencies in matters of condonation of delay is no longer available in view of the

technological advancement and the shift in jurisprudence as elucidated in ***Postmaster General*** (supra). It observed that no case under Section 5 of the Limitation Act could be said to be made out where there is no reason or excuse given in respect of the period for which condonation is sought. The relevant observations read as under: -

> *"3. A reading of the aforesaid shows that there is no reason much less sufficient and cogent reason assigned to explain the delay and the application has also been preferred in a very casual manner. We may notice that there are number of orders of this State Government alone which we have come across where repeatedly matters are being filed beyond the period of limitation prescribed. We have been repeatedly discouraging such endeavours where the Governments seem to think that they can walk in to the Supreme Court any time they feel without any reference to the period of limitation, as if the statutory Law of Limitation does not exist for them.*
>
> *4. There is no doubt that these are cases including the present one where the Government machinery has acted in an inefficient manner or it is a deliberate endeavour. In either of the two situations, this Court ought not to come to the rescue of the petitioner. No doubt, some leeway is given for Government inefficiency but with the technological advancement now the judicial view prevalent earlier when such facilities were not available has been over taken by the elucidation of the legal principles in the judgment of this Court in Postmaster General v. Living Media (India) Ltd. We have discussed these aspects in State of M.P. v. Bherulal and thus, see no reason to repeat the same again.*
>
> *5. In the present case, the State Government has not even taken the trouble of citing any reason or excuse nor any dates given in respect of the period for which condonation is sought. The objective of such an exercise has also been elucidated by us in the aforesaid judgment where we have categorised such cases as "certificate cases".*

*6. The object of such cases appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say nothing could done because the highest Court has dismissed the appeal. It is mere completion of formality to give a quietus to the litigation and save the skin of the officers who may be at fault by not taking action in prescribed time. If the State Government feels that they have suffered losses, then it must fix responsibility on officers concerned for their inaction but that ironically never happens. These matters are preferred on a presumption as if this Court will condone the delay in every case, if the State Government is able to say something on merits.*

*7. Looking to the period of delay and the casual manner in which the application has been worded, we consider it appropriate to impose costs of Rs 25,000 to be deposited with the Supreme Court Advocates-on-Record Welfare Fund. The amount be deposited in four weeks. The amount be recovered from the officers responsible for the delay in filing both the writ appeal and the special leave petition and a certificate of recovery be also filed in this Court within the same period of time."*

(Emphasis supplied)

**201.** Similarly, in ***State of U.P. v. Sabha Narain***, reported in **(2022) 9 SCC 266**, this Court once again deprecated the tendency of State and its instrumentalities to proceed on the assumption that they may approach the courts at their own convenience and sweet will, disregarding the period of limitation prescribed by statute, as though the Limitation statute does not apply to them. It held that the leeway which was at one point extended to the Government/public authorities on account of innate functional inefficiencies is no more the norm, particularly in the wake of the decision of ***Postmaster General*** (supra). The relevant observations read as under: -

*"3. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgments in State of M.P. v. Bherulal [State of M.P. v. Bherulal, (2020) 10 SCC 654 : (2021) 1 SCC (Cri) 117 : (2021) 1 SCC (Civ) 101 : (2021) 1 SCC (L&S) 84] and State of Odisha v. Sunanda Mahakuda [State of Odisha v. Sunanda Mahakuda, (2021) 11 SCC 560 : (2022) 1 SCC (Cri) 300 : (2022) 2 SCC (L&S) 393] . The leeway which was given to the Government/public authorities on account of innate inefficiencies was the result of certain orders of this Court which came at a time when technology had not advanced and thus, greater indulgence was shown. This position is no more prevalent and the current legal position has been elucidated by the judgment of this Court in Postmaster General v. Living Media India Ltd. [Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 : (2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] Despite this, there seems to be little change in the approach of the Government and public authorities.*

*4. We have also categorised such kind of cases as "certificate cases" filed with the only object to obtain a quietus from the Supreme Court on the ground that nothing could be done because the highest Court has dismissed the appeal. The objective is to complete a mere formality and save the skin of the officers who may be in default in following the due process or may have done it deliberately. We have deprecated such practice and process and we do so again. We refuse to grant such certificates and if the Government/public authorities suffer losses, it is time when officers concerned responsible for the same, bear the consequences. The irony, emphasised by us repeatedly, is that no action is ever taken against the officers and if the Court pushes it, some mild warning is all that happens.*

*5. Looking to the period of delay and the casual manner in which the application has been worded, we consider appropriate to impose costs on the petitioner(s) of Rs 25,000 for wastage of judicial time which has its own value and the same be deposited with the Supreme Court Advocates-on-Record Welfare Fund within four weeks. The amount be recovered from the officers*

*responsible for the delay in filing the special leave petition and a certificate of recovery of the said amount be also filed in this Court within the same period of time."*

(Emphasis supplied)

**202.** In ***Union of India v. Jahangir Byramji Jeejeebhoy*** reported in **2024 SCC OnLine SC 489**, this Court speaking through one of us (J.B. Pardiwala J.) held that it hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning a gross delay in filing of an appeal or application, as the case may be. It held that unless the Department has reasonable and acceptable reason for the delay and there was bona fide 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 relevant observations read as under: -

*"25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.*

*xxx xxx xxx*

*27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head*

*of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants*.

*xxx* *xxx* *xxx*

*30. In Postmaster General v. Living Media India Limited, (2012) 3 SCC 563, this Court, while dismissing the application for condonation of delay of 427 days in filing the Special Leave Petition, held that condonation of delay is not an exception and it should not be used as an anticipated benefit for the government departments. In that case, this Court held that unless the Department has reasonable and acceptable reason for the delay and there was bona fide 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 cannot be accepted. [...]*

(Emphasis supplied)

**203.** This Court in ***Jahangir Byramji Jeejeebhoy*** (supra) further held that when it comes to Section 5 of the Limitation Act, delay should not be excused as a matter of generosity. Rendering substantial justice is not a free-pass to cause prejudice to the opposite party. The vital test for condoning the delay is for the party that is praying for such condonation to prove that it was reasonably diligent in prosecuting the matter. The relevant observations read as under: -

*"35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case."*

(Emphasis supplied)

### iii. The ratio of the decision of Postmaster General.

**204.** We are conscious of a few decisions of this Court, particularly, ***Inder Singh v. State of M.P***. reported in **2025 SCC OnLine SC 600**, ***Sheo Raj Singh v. Union of India***, reported in **(2023) 10 SCC 531** and ***State of Manipur v. Koting Lamkang*** reported in **(2019) 10 SCC 408** wherein the decision of ***Postmaster General*** (supra) was distinguished or not followed, and the delay on account of the government entity therein was condoned. We shall briefly take a look at these decisions.

**205.** In ***Koting Lamkang*** (supra) there was a delay of 312-days in preferring the regular first appeal by the State Government therein. Both the courts below had declined to condone the delay on the ground that there was no explanation for a certain period of time. This Court whilst setting aside the impugned order and condoning the delay in filing of the appeal, held that interest of justice would be better served, if the delay is condoned and the matter is allowed to be heard on merits, as otherwise it would be the public interest which would likely suffer if the State is non-suited on the ground of delay. We have gone through the decision multiple times. Nowhere has this Court in ***Koting Lamkang*** (supra) referred to or taken note of the change in position of law by the decision of ***Postmaster General*** (supra). Thus, in our considered opinion, this decision falls smack of and is in teeth

of the ratio laid in ***Postmaster General*** (supra) that has been consistently followed.

**206.** In ***Inder Singh*** (supra) there was a delay of 1537-days in filing of the Second Appeal by the respondent state therein. While the First Appellate Court refused to condone the delay for want of sufficient cause, the High Court on the other hand, condoned the delay. In appeal, this Court whilst affirming the condonation of delay by the High Court observed that the respondent state therein had demonstrated "sufficient cause" for the delay by virtue of having pursed a Review Petition, which itself had been delayed, and further delay on account of COVID-19. Although, the decision of ***Postmaster General*** (supra) was not alluded to, yet a closer reading of the decision reveals that the explanation offered by the respondent state was not the typical departmental delays or bureaucratic inefficiency, and rather had assigned detailed, plausible account of delay, which is why the delay was condoned. Even otherwise, what is of importance, is that, nowhere has this Court in ***Inder Singh*** (supra) accorded any special treatment in condonation of delay, by virtue of the party being a State, thus, we need not dwell on this decision any further.

**207.** The decision of ***Sheo Raj Singh*** (supra) is of particular significance, and may be the most instructive in understanding the decision of ***Postmaster***

***General*** (supra). In the said case, there was a delay of 479-days in preferring the appeal. The explanation put forth by the respondent state for the delay were of the nature of lamentable institutional inefficiency and the deplorable bureaucratic inertia, which ultimately found favour with the High Court, and accordingly the delay was condoned. In appeal, the decision of the High Court was assailed on the touchstone of the decisions of ***Postmaster General*** (supra) and a catena of other decisions that had held that such an explanation of bureaucratic lethargy cannot be accepted.

**208.** This Court in ***Sheo Raj Singh*** (supra) exhaustively examined all the decisions of this Court, prior to and after the decision of ***Postmaster General*** (supra). It observed that although, the subsequent decisions of this Court have not accepted governmental lethargy, tardiness and indolence in presenting appeals as sufficient cause for condonation of delay, yet, because the High Court had condoned the delay by accepting such explanation before the decision of ***Postmaster General*** (supra) was rendered, the exercise of discretion by the High Court has to be tested on the anvil of the liberal and justice oriented approach as expounded in the decisions which earlier occupied the field. It was in light of the aforesaid that this Court, refused to interfere with the exercise of discretion by the High Court therein. The relevant observations read as under: -

> *"33. Be that as it may, it is important to bear in mind that we are not hearing an application for condonation of delay but sitting in*

*appeal over a discretionary order of the High Court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation would be the question. Law is fairly well-settled that "a court of appeal should not ordinarily interfere with the discretion exercised by the courts below". If any authority is required, we can profitably refer to the decision in Manjunath Anandappa v. Tammanasa, which in turn relied on the decision in Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha where it has been held that:*

> *"an appellate power interferes not when the order appealed is not right but only when it is clearly wrong"."*

*34. The order under challenge in this appeal is dated 21-12-2011. It was rendered at a point of time when the decisions in Katiji, Ramegowda, Chandra Mani, K.V. Ayisumma and Lipok AO were holding the field. It is not that the said decisions do not hold the field now, having been overruled by any subsequent decision. Although there have been some decisions in the recent past [State of M.P. v. Bherulal16 is one such decision apart from University of Delhi which have not accepted governmental lethargy, tardiness and indolence in presenting appeals within time as sufficient cause for condonation of delay, yet, the exercise of discretion by the High Court has to be tested on the anvil of the liberal and justice oriented approach expounded in the aforesaid decisions which have been referred to above.*

*xxx xxx xxx*

*41. Having bestowed serious consideration to the rival contentions, we feel that the High Court's decision1 to condone the delay on account of the first respondent's inability to present the appeal within time, for the reasons assigned therein, does not suffer from any error warranting interference. As the aforementioned judgments have shown, such an exercise of discretion does, at times, call for a liberal and justice-oriented approach by the courts, where certain leeway could be provided to the State. The hidden forces that are at work in preventing an*

*appeal by the State being presented within the prescribed period of limitation so as not to allow a higher court to pronounce upon the legality and validity of an order of a lower court and thereby secure unholy gains, can hardly be ignored. Impediments in the working of the grand scheme of governmental functions have to be removed by taking a pragmatic view on balancing of the competing interests.*

(Emphasis supplied)

**209.** At this juncture, it would be apposite to refer to the decision of this Court in ***State of Rajasthan & Anr. v. Bal Kishan Mathur (Dead) through Legal Representatives & Ors.*** reported in **(2014) 1 SCC 592**, wherein this Court explained the ratio of the decision in ***Postmaster General*** (supra). This Court explained that as per ***Postmaster General*** (supra) there cannot be any preferential treatment towards the State or any of its instrumentality, when it comes to condonation of delay. It further explained that as long as there is no gross negligence or deliberate inaction or lack of bona fides, a broad and liberal approach should be adopted when dealing with an application for seeking condonation of delay. Unless the explanation furnished for the delay is wholly unacceptable or if no explanation whatsoever is offered or if the delay is inordinate and third-party rights had become embedded during the interregnum the courts should lean in favour of condonation. The relevant observations read as under: -

*"8. It is correct that condonation of delay cannot be a matter of course; it is also correct that in seeking such condonation the State cannot claim any preferential or special treatment. However, in a situation where there has been no gross negligence or deliberate inaction or lack of bona fides this Court has always*

*taken a broad and liberal view so as to advance substantial justice instead of terminating a proceeding on a technical ground like limitation. Unless the explanation furnished for the delay is wholly unacceptable or if no explanation whatsoever is offered or if the delay is inordinate and third-party rights had become embedded during the interregnum the courts should lean in favour of condonation. Our observations in Postmaster General v. Living Media India Ltd. and Amalendu Kumar Bera v. State of W.B. do not strike any discordant note and have to be understood in the context of facts of the respective cases."*

(Emphasis supplied)

**210.** What may be discerned from the aforesaid is that the jurisprudence on condonation of delay under Section 5 of the Limitation Act, particularly where the State or any of its instrumentality is involved, has witnessed a significant shift. From a regime that once accorded preferential indulgence to the State, premised on its bureaucratic complexities and institutional inertia, the law has now evolved to insist upon parity between the government and private litigants. The rationale is that public interest is better served not by excusing governmental inefficiency, but by fostering accountability, diligence, and responsibility in the conduct of public litigation.

**211.** The earlier decisions of this Court, particularly in ***K.V. Ayisumma*** (supra), ***Chandra Mani*** (supra), ***Lipok AO*** (supra) and ***Indian Oil Corpn*** (supra) insofar as they favoured a liberal approach towards the State or any of its instrumentality in matters of condonation of delay, and showed indulgence

in condoning the same on ground of impersonal and slow-moving nature of these entities, no longer reflects the correct position in law. No litigant, be it a private party or a State or any of its functionaries, is entitled to a broader margin of error, falling in the category of inaction, negligence or casualness, in matters of limitation.

**212.** The law as it presently stands, post the decision of ***Postmaster General*** (supra), is unambiguous and clear. 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.

**213.** From a combined reading of ***Bal Kishan Mathur*** (supra) and ***Sheo Raj Singh*** (supra) it is equally manifest that the *ratio* of ***Postmaster General*** (supra) is, in essence, twofold. ***First,*** that State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. The State must be judged by the same standards as any private litigant. To do otherwise would not only compromise the sanctity of limitation. The earlier view, insofar as it favoured a liberal approach towards the State or any of its instrumentality is no more the correct position of law. ***Secondly,*** that the

habitual reliance of Government departments on bureaucratic red tape, procedural bottlenecks, or administrative inefficiencies as grounds for seeking condonation of delay cannot always, invariably accepted as a "*sufficient cause*" for the purpose of Section 5 of the Limitation Act. If such reasons were to be accepted as a matter of course, the very discipline sought to be introduced by the law of limitation would be diluted, resulting in endless uncertainty in litigation.

**214.** What has been conveyed in so many words, by the decision of ***Postmaster General*** (supra) is that while excuses premised solely on bureaucratic lethargy cannot, by themselves, constitute sufficient cause, there may nonetheless be circumstances where the explanation offered, though involving bureaucratic procedures, reflects a genuine and bona fide cause for the delay. In such instances, the true test is whether the explanation demonstrates that the State acted with reasonable diligence and whether the delay occurred despite efforts to act within time. Where such bona fides are established, the Court retains the discretion to condone the delay.

**215.** In other words, ***Postmaster General*** (supra) does not shut the door on condonation of delay by the State in all cases involving bureaucratic processes. The real distinction lies between a case where delay is the result of gross negligence, inaction, or casual indifference on the part of the State,

and a case where delay has occurred despite sincere efforts, owing to the inherent complexities of governmental decision-making. While the former category must necessarily be rejected to uphold the discipline of limitation, the latter can still attract judicial indulgence where public interest is at stake and the cause is shown to be reasonable.

**216.** In this regard, the vital test that has to be employed, wherever "*sufficient cause*" is sought to be demonstrated on the ground of bureaucratic inefficiencies is to distinguish between whether the same is an "explanation" or an "excuse". Although the two may appear to be one and the same, yet there exists a fine but pertinent distinction between an "excuse" and an "explanation".

**217.** As illustrated in ***Sheo Raj Singh*** (supra) an "excuse" is often offered by a person to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an "excuse" would imply that the explanation proffered is believed not to be true. An "explanation" on the other hand would demonstrate genuineness in actions and reasons assigned, and would other wise be devoid of any gross negligence, deliberate inaction or lack of bona fides, or indifference or casualness in conduct. Thus said, there is no formula that caters to all situations and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts.

**218.** However, equally important to note is that wherever, any explanation is sought to be given on account of bureaucratic lethargy and inherent complexities of governmental decision-making, the same more often than not would invariably always is an "excuse", as experience has shown us, depicted from a long line of decisions of this Court. It is at this stage, where the decision of ***Postmaster General*** (supra) assumes significance. It seeks to convey the messages, that court should not be agnostic, to how the State or its instrumentalities, often tend to take the recourse of condonation of delay in a casual manner.

**219.** Which is why, as per the *ratio* of ***Postmaster General*** (supra) and a plethora of other subsequent decision, the ordinary approach of the courts, in cases where delay is sought to be condoned by offering the explanation of bureaucratic lethargy or red-tapism, must be one of circumspection and reluctance. The courts ought to loathe in accepting such explanations as "sufficient cause". They should apply their minds carefully, be slow in condoning delays on such reasons, and exceptional instances, where the explanation is found to be genuine, reflective of reasonable vigilance and promptitude in conduct, and free from gross negligence, deliberate inaction, lack of bona fides, or casual indifference, should such an explanation be accepted.

**iv. Whether exercise of discretion in view of the earlier position of law may be interfered with?**

**220.** Before we close this issue, we may address ourselves on one contention, vociferously canvassed on behalf of the respondents herein. It was submitted that since, in the present case the discretion to condone the delay was exercised by the High Court in 2017, and prior to the decisions of ***Bherulal*** (supra) and ***University of Delhi*** (supra), the High Court cannot be faulted with accepting the explanation offered by the respondents, tune with the decisions earlier occupying the field. Accordingly, it was urged that the exercise of discretion by the High Court must be tested on the anvil of the decisions that occupied the field when the delay was ultimately condoned. In this regard, reliance was placed on ***Sheo Raj Singh*** (supra).

**221.** As already discussed, in ***Sheo Raj Singh*** (supra) since the explanation of bureaucratic inefficiencies was accepted and delay had been condoned by the High Court by exercising its discretion before the decision of ***Postmaster General*** (supra) came to be rendered, this Court in ***Sheo Raj Singh*** (supra) held that the exercise of discretion by the High Court would then, invariably have to be tested on the anvil of the liberal and justice oriented approach as expounded in the decisions which earlier occupied the field. We may at the cost of repetition again reproduce the relevant observations of ***Sheo Raj Singh*** (supra) in this regard: -

> *"34. The order under challenge in this appeal is dated 21-12-2011. It was rendered at a point of time when the decisions in Katiji, Ramegowda, Chandra Mani, K.V. Ayisumma and Lipok AO were holding the field. It is not that the said decisions do not hold the field now, having been overruled by any subsequent decision. Although there have been some decisions in the recent past [State of M.P. v. Bherulal16 is one such decision apart from University of Delhi which have not accepted governmental lethargy, tardiness and indolence in presenting appeals within time as sufficient cause for condonation of delay, yet, the exercise of discretion by the High Court has to be tested on the anvil of the liberal and justice oriented approach expounded in the aforesaid decisions which have been referred to above."*
>
> (Emphasis supplied)

**222.** At the outset, we may reject this contention outrightly. We say so, because the decisions of this Court in ***Bherulal*** (supra) and ***University of Delhi*** (supra) have followed the *ratio* laid in ***Postmaster General*** (supra), which was rendered all the way back in 2012 i.e., much prior to when the delay came to be condoned by the High Court in the case on hand.

**223.** Even if we assume, that the decision ***Postmaster General*** (supra) was not in existence, the contention of the respondent deserves to be rejected for the reasons we shall assign hereunder.

**224.** We have already elaborated in the earlier parts of this judgment on the two-pronged inquiry that is required to be undertaken by the appellate court when sitting in appeal over a lower court's decision in condoning the delay, which involves, *first*, looking into the existence of a "sufficient cause" and

secondly, into the exercise of discretion itself, where the first test is satisfied. This threshold test, involves ascertaining whether the order passed by the court below is not vitiated due to any material irregularity, want of evidence, extraneous considerations, failure to take into consideration any relevant fact, or being contrary to the law of the land (emphasis).

**225.** Where, however, the law, during the pendency of the appeal, has undergone a shift, there the court sitting in appeal, would not only be bound by the change in position of law, but would be well empowered to interfere with the lower courts decision, on that ground alone, notwithstanding the fact, that when the original decision was rendered, that was not the position of law. If any authority is required, in this regard, one may profitably refer to the decision of this Court in ***Directorate of Revenue Intelligence v. Raj Kumar Arora & Ors.*** reported in **[2025 INSC 498]** wherein one of us (J.B. Pardiwala J.) held that a decision of the court which either overrules or results in a change in position of law, generally operates retrospectively.

**226.** The question, whether interference on ground of change in law during pendency of proceedings, would really turn upon the context and nature of the discretion exercised. Ordinarily, such an interference would not only be justified but also warranted. But when it comes to condonation of delay, the considerations are slightly different, inasmuch as the court is required to prioritize a pragmatic and justice-oriented approach over technicalities.

Rules of limitation are not meant to destroy the rights of parties. Thus, in such situations, the court may be refuse to interfere with the exercise of discretion by the lower court in condoning the delay, as long as view that was arrived at by the court below could have been taken by it, from the material on record, keeping in mind the position of law that prevailed then. However, this would depend upon the peculiar facts and circumstances of each case, and the attending circumstances, and what inevitably follows is that, there may be situations, where the appellate court may interfere, keeping in mind the changed position of law. No hard and fast rule can be laid down in this regard.

**227.** We may, with a view to obviate any confusion, clarify that 'change in position of law' should not be conflated with the 'position of law' that existed at the time of exercise of discretion to condone delay. In the former, the courts may or may not, interfere with the condonation of delay, if the same is in contradiction to a subsequent change in law, but in the latter, the courts ought to interfere with condonation of delay, for such a view could not have been plausibly arrived at by the lower court, in view of the law that already existed at the time of condonation of delay.

**v. Public Policy vis-à-vis Public Interest in matters of delay on part of the State or any of its instrumentalities.**

**228.** Limitation laws are themselves grounded in public policy, as already discussed in the preceding paragraphs of this judgment, it is based on the maxim '*interest reipublicae ut sit finis litium*' i.e., "*it is for the general welfare that a period be put to litigation*". Therefore, public interest is better served by timely governmental action than by condoning repeated lapses. State cannot simultaneously seek to represent the interest of the public and yet consistently fail to protect that very interest by allowing limitation periods to lapse.

**229.** Public interest is best served by ensuring efficiency and diligence in governmental functioning, rather than by condoning its lapses as a matter of course. Thus, a liberal inclination towards the State or any of its instrumentalities, in matters of condonation of delay, cannot be adopted, merely on the presumption that, if the delay is not condoned, public interest runs the risk of suffering, by a meritorious matter being thrown out. Public interest lies not in condoning governmental indifference, but in compelling efficiency, responsibility, and timely action.

**230.** To permit condonation of delay to become a matter of course for the Government would have the deleterious effect of institutionalising inefficiency. It would, in substance, incentivise indolence and foster a

culture where accountability for delay is eroded. If the State is assured that its lapses will invariably be excused under the rubric of "public interest," there would remain little incentive for its officers to act with vigilance or for its instrumentalities to streamline procedures for timely action. The consequence would not be the advancement of public interest but rather its betrayal.

**231.** Public interest, therefore, does not lie in condoning governmental negligence, but in compelling efficiency, responsibility, and timely decision-making. This Court has time and again emphasised that liberal condonation of delay on behalf of the State, merely on the ground that refusal might cause the dismissal of a potentially meritorious matter, is a misplaced proposition. Public interest is not synonymous with the cause of the Government; it is, instead, synonymous with the enforcement of rule of law, certainty in legal rights, and an administrative machinery that functions with diligence and accountability.

**232.** It must, therefore, be underscored that the guiding principle is not the protection of governmental indifference but the promotion of responsible governance. The State is under a higher duty to act in time, for in every matter it litigates, it does so not in its private capacity, but as the trustee of the people's interest. Hence, repeated indulgence in condoning delays on grounds of bureaucratic inefficiency would amount to eroding the very

object of limitation statutes, which are enacted in every civilised jurisdiction for the sake of finality, certainty, and public order.

**233.** Any other view, would invariably defeat the sound public policy embodied in the Limitation Act and fail in enthusing efficiency in administration, and bring a balance between accountability and autonomy of action, It would result in giving immunity or carte blanche power to act as it pleases with the public at whim or vagary and inevitably spell doom all over the collective responsibility that the State and its instrumentalities are entrusted with. Thus, we are of the considered opinion, that delay cannot be condoned, merely because not doing so would result in non-suiting the State and thereby run the ostensible risk of public interest suffering. Such by no stretch can be the sole consideration for the purpose of Section 5 of the Limitation Act, as to do so would be to ignore the provision of Section 3 and the overarching public policy of giving *quietus* to *lis,* that forms the bedrock of the Limitation Act.

**234.** Even otherwise, it is no more *res-integra*, that law of limitation has to be applied all but the same and with all its rigour, even if it may harshly affect a particular party. In ***Basawaraj*** (supra) this Court observed that a result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation. Even if the statutory provision may cause hardship or

inconvenience to a particular party the court has no choice but to give full effect to the same. It is based on the legal maxim *dura lex sed lex* i.e., "*the law is hard but it is the law*". The relevant observations read as under: -

> *"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.*
>
> *13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. [...]"*
>
> (Emphasis supplied)

**235.** An application seeking condonation of delay is to be decided only within the parameters laid down by this Court. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, on lofty ideals amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the statute.

## E. Whether the High Court was justified in condoning the delay?

**236.** We heard Mr. Akshat Shrivastava, the learned counsel appearing for the appellant. He would argue that the respondent no. 1 failed to assign any "*sufficient cause*" for the gross delay, more particularly as to why the second appeal could not be filled within the prescribed period of limitation. He submitted that the High Court erred in allowing the application seeking condonation of delay in the absence of any sufficient cause thereof. The learned counsel contended that the filing of the second appeal by the respondent housing corporation is nothing but gross abuse of process of law, more particularly when the officials of the respondent housing corporation did nothing for a period of almost 6-years, despite notice being served to them at the time of execution of the decree on 28.03.2011. He would submit that the condonation of such gross and inordinate delay by the High Court could be said to be *ex-facie* illegal and against the very fundamental cannons of the law of limitation and public policy.

**237.** *Per contra*, Ms. Kiran Suri, the learned Senior Counsel appearing for the respondent no. 1, would argue that the High Court no error not to speak of any error of law in condoning the delay and in accepting the sufficient cause assigned for the same. She would submit that, when substantial justice and technical considerations are pitted against each other, the latter must give

way to the former, more particularly when public interest is involved. She further submitted that the delay was on account of the deliberate negligence on the part of the officers, and in such circumstances the interest of respondent no. 1, as an instrumentality of State, must not be put to a disadvantage. She further brought to the notice of this Court that the respondent no. 1 had already taken disciplinary action against the erring delinquent officials.

**238.** The learned Senior Counsel also contended that the suit filed by the appellant was one for possession, however, the First Appellate Court proceeded to erroneously grant the relief of compensation, aggrieved by which the respondent no. 1 had to prefer second appeal before the High Court. She submitted that the persons who were found to be in unlawful possession of the suit property had nothing to do with the respondent no. 1, and that it would be very harsh to recover such compensation from the respondent no. 1, which functions on public exchequer.

**239.** Indisputably, there was a gross and inordinate delay of almost 11-years in filing the second appeal. The respondent no. 1 maintains that the delay was on account of five erring officials, including an Executive Engineer who was designated as the litigation conducting officer. It is the case of the respondent housing corporation that the day it came to learn about the decree passed by

the First Appellate Court dated 15.04.2006, its legal department on 27.05.2006 advised the respondent to prefer a second appeal. However, due to the sheer negligence exhibited by the Executive Engineer in furnishing the requisite information and documents to the Special Land Acquisition Officer (hereinafter the "**SLAO**"), in spite of various correspondence requesting for the same on 01.06.2006, 09.06.2006 and 20.07.2006, respectively the second appeal could not be filed in time.

**240.** It further appears that the decision to file the second appeal was taken only on 17.10.2006, which was anyway beyond the limitation period. Despite the expiry of the limitation period, it is only after almost a year that the matter was assigned to an advocate, on whose complaints of no assistance from the Executive Engineer, the SLAO pursued the Executive Engineer again, *vide* letter dated 16.10.2007, requesting him to provide the necessary files and record of the case. It is the case of the respondent no. 1, that such correspondences were exchanged until 2008.

**241.** The execution proceedings came to be initiated by the appellant on 20.01.2011, pursuant to which the first notice was issued to the respondent no. 1 on 28.03.2011. Despite the callousness exhibited by the person holding the office of the Executive Engineer, the same officer was appointed to make representations for the respondent no. 1 in the proceedings. The

Commissioner of the respondent no. 1 was informed about the aforesaid proceedings on 28.01.2017 when an order of attachment was passed by the Executing Court. Thereafter, a new officer was appointed to facilitate the respondent's litigation, and the second appeal was finally filed on 10.02.2017 before the High Court, along with an application under Section 5 of the 1963 Act read with Section 151 of the CPC.

**242.** To our utter shock and dismay, the High Court accepted the explanation of sufficient offered by the respondent no. 1. We are at our wits "end" to understand the aforesaid findings recorded by the High Court. It appears that the respondent no. 1 has tried to make the Executive Engineer a scapegoat, who undoubtedly acted in a most irresponsible and callous manner but did not have to take the entire blame to himself. This is more apparent from the fact that the disciplinary proceedings against the concerned Executive Engineer allegedly responsible for the delay was initiated only on 10.03.2017, while the application for condonation of delay was filed exactly a month before i.e., on 10.02.2017. It appears to us that the respondent no. 1 took such coercive actions only to ingratiate itself before the High Court to demonstrate its *bona fides* and butter its cries of vigilance.

**243.** It was urged by the learned Senior Counsel appearing for the respondents herein that the deliberate inaction or *mala fides* on the part of the officials

cannot be imputed to the State or its instrumentalities, since the Government cannot carry on business upon principle of distrust. In this regard, reliance was placed on the decision of this Court in ***G. Ramegowda, Major*** (supra).

**244.** In ***G. Ramegowda, Major*** (supra) this Court observed that due to the impersonal nature of the Government, it would be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. Thus, where a government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it, then the conduct of such officers should not be imputed to the Government for refusing condonation of delay. The relevant observations read as under: -

> *"17. [...] It would, perhaps, be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process. In the opinion of the High Court, the conduct of the law officers of the Government placed the Government in a predicament and that it was one of those cases where the mala fides of the officers should not be imputed to Government. It relied upon and trusted its law officers. Lindley, M.R., in the In re National Bank of Wales Ltd. observed, though in a different context:*
>
> > *"Business cannot be carried on upon principles of distrust. Men in responsible positions must be trusted by those above them, as well as by those below them, until there is reason to distrust them."*
>
> *In the opinion of the High Court, it took quite some time for the government to realise that the law officers failed that trust.*

*18. While a private person can take instant decision a "bureaucratic or democratic organ" it is said by a learned Judge "hesitates and debates, consults and considers, speaks through paper, moves horizontally and vertically till at last it gravitates towards a conclusion, — unmindful of time and impersonally". Now at the end, should we interfere with the discretion exercised by the High Court? Shri Datar criticised that the delay on the part of Government even after January 20, 1971 for over a year cannot be said to be either bona fide or compelled by reasons beyond its control. This criticism is not without substance. Government could and ought to have moved with greater diligence and dispatch consistent with the urgency of the situation. The conduct of Government was perilously close to such inaction as might, perhaps, have justified rejection of its prayer for condonation. But as is implicit in the reasoning of the High Court, the unarticulated thought, perhaps was that in the interest of keeping the stream of justice pure and clean the awards under appeal should not be permitted to assume finality without an examination of their merits. The High Court noticed that the Government Pleader who was in office till December 15, 1970 had applied for certified copies on July 20, 1970, but the application was allowed to be dismissed for default. In one case, however, he appears to have taken away the certified copy even after he ceased to be a Government Pleader."*

(Emphasis supplied)

**245.** As already discussed in the earlier parts of this judgment, State or any of its instrumentalities cannot be accorded preferential treatment in matters concerning condonation of delay under Section 5 of the Limitation Act. ***G. Ramegowda, Major*** (supra) itself acknowledges that, ordinarily there is "*no general principle saving the party from all mistakes of its counsel or agents*". Even if "*there is negligence, deliberate or gross inaction or lack of bona fides on the part of the party or its counsel there is no reason why the opposite*

*side should be exposed to a time-barred appeal*". The relevant observations read as under: -

> *"14. The contours of the area of discretion of the courts in the matter of condonation of delays in filing appeals are set out in a number of pronouncements of this Court. See: Ramlal, Motilal and Chhotelal v. Rewa Coalfield Ltd.; Shakuntala Devi Jain v. Kuntal Kumari; Concord of India Insurance Co. Ltd. v. Nirmala Devi; Lala Mata Din v. A. Narayanan; Collector, Land Acquisition v. Katiji etc. There is, it is true, no general principle saving the party from all mistakes of its counsel. If there is negligence, deliberate or gross inaction or lack of bona fides on the part of the party or its counsel there is no reason why the opposite side should be exposed to a time-barred appeal*."

**246.** However, the reason why, this Court nonetheless, held that acts of fraud or bad faith on the part of its officers or agents should not be imputed to the Government atleast for condonation of delay was in view of the earlier position of law, whereby the State and its instrumentalities were not placed on the same pedestal as any ordinary private litigant, in view of the impersonal character of the Government as an entity.

**247.** But the position of law is no longer this. As per ***Postmaster General*** (supra) and the subsequent decisions of this Court, consideration for condonation of delay under Section 5 of the Limitation Act does not and cannot vary depending on the identity or status of the party, whether it be the Government, a public body, or a private litigant, so as to apply a different yardstick.

**248.** The subsequent decision of this Court in ***Tejpal*** (supra), after duly taking note of the change in position of law, specifically rejected the contention that acts of *mala fides* on the part of specific individuals should not be imputed to the State or its instrumentalities. It held that to accept such a proposition would amount to creating an artificial distinction between the private parties and the Government entities vis-à-vis the law of limitation. The relevant observations read as under: -

> *"54. It seems to us that acceding to the appellants' request on the aforesaid account would also have undesirable consequences. If delay were to be condoned merely on the basis of a broad general assertion of bureaucratic indifference, without requiring demonstration of bona fides or an act of mala fides on the part of specific individuals, it would create an artificial distinction between the private parties and the Government entities vis-à-vis the law of limitation. This would not be in conformity with the spirit of equality before law as guaranteed under our Constitution. Allowing such latitude would further distort incentives for the Government and encourage more laxity by the bureaucracy in its general functioning, thereby undermining quality governance*."
>
> (Emphasis supplied)

**249.** Once the State chooses to litigate, it must shoulder the same responsibilities and abide by the same limitations that bind every litigant. To permit the State to evade the consequences of delay on the ostensible plea that the fault lay with individual officers would amount to diluting the rigour of limitation statutes and undermining their very object. Such an approach would not only

privilege the State unjustly over private parties but would also perpetuate a culture of indifference and irresponsibility within the administration.

**250.** As far back as 1996, this Court in ***Chandra Mani*** (supra) held that where the case requires an appeal or application to be filed, despite the delay, then prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Thus, even if for a moment, we accept that, *mala-fide* actions of few officers should not be imputed to the Government, the position still remains that, once the State or its instrumentality finds that, few of its officers were negligent, it should promptly take action to file the appeal or application, as the case may be, through its other officers and simultaneously take action against the delinquent officers.

**251.** As already observed, in the present case at hand, despite the callousness exhibited by the Executive Engineer, the respondent no. 1 herein took no steps towards mitigating the delays and ensuring that the appeal was preferring as soon as possible. On the contrary, the Executive Engineer was appointed to make representations for the respondent no. 1 in the proceedings. Even the disciplinary proceedings against the concerned Executive Engineer came to be initiated much later, to be precise exactly a month before the date on which the application for condonation of delay was

filed. In such circumstances, even if we do not impute the deliberate inaction or *mala fides* on the part of the Executive Engineer to the respondent no. 1 herein, there is nothing to show that the respondent no. 1 acted in a reasonably diligent manner.

**252.** Even if the case put up by the respondent no. 1 is to be accepted at its face value, the respondent no. 1 could be said to have failed to assign any genuine sufficient cause to justify the delay from the date of receiving intimation about the order of the First Appellate Court, passed on 15.04.2006 till the expiry of the limitation period, which was sometime in July 2006, because it was only in the correspondence dated 17.10.2006 that the respondent no. 1, while acknowledging the advice tendered by its advocate, reflected that it would prefer a second appeal. We have little to no hesitation in saying that on 17.10.2006, it was already too late in the day to take any decision or make any forms of mind. Nonetheless, the second appeal was only filed on 10.02.2017, with a delay of almost 11 years.

**253.** As already noted in the foregoing parts of this judgment the respondent no. 1 could be said to have failed to explain the delay on its part from the date of the receipt of the order of the First Appellate Court till the expiry of the limitation period.

**254.** We say so because if such observations by the High Court, to condone delay in the interest of a State-machinery, were allowed to be sustained by us, it would allow the State-machineries a leeway to systematically orchestrate delays in the guise of laxity exhibited by their authorities. Given the majesty and colossality a State-machinery would hold against a private litigant, it would be grossly unfair to a litigant, who would be perpetually entangled in the clutches of litigation, if enormous delays, like that of almost 11 years in the present case, are permitted to be condoned. This Court has never turned a blind eye to the gradients of substantive justice.

**255.** It hardly matters whether a litigant is a private party or a State when it comes to condoning the gross delay of more than 11-years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started in 1989. We are in 2025. Almost 36 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. The High Court has made a mockery of justice by condoning this delay of 3966 days and once again ask the appellant to undergo the rigmarole of the legal proceedings.

**256.** As far as the contention of the respondent no. 1 is concerned *apropos* to the merits of molding of relief by awarding of compensation by the First Appellate Court, the same is squarely answered by the principles encapsulated in ***Pathapati Subba Reddy*** (supra), wherein it is categorically maintained that the court considering a condonation of delay ought not go into the merits of the case at hand.

**257.** We also wish to highlight that the High Court applied the legal position incorrectly in the impugned order and performed an exercise of "merit-hunting". It gave a *prima facie* relevance to the argument of the respondent no. 1 on the grounds that the suit of the appellant was not at all maintainable in the first place. In paragraph 13 of the impugned order, the High Court recorded that a semblance of right in favour of respondent no. 1 swayed its mind to allow the condonation of delay, and it accepted the same as a "*sufficient cause*". We hold such observations to be erroneous and *ex facie* bad in law. Similar contentions were rejected by this Court in ***State of Madhya Pradesh*** **v.** ***Bherulal***, reported in **(2020) 10 SCC 654**, wherein the appellant-State was seeking a condonation of delay of 663 days. This Court sternly noted that it will not let the courts to be forums wherein the Government can walk-in, when it desires, entirely ignoring the period of limitation, and buttress reliance on cases of this Court wherein it allowed

condonation, employing its discretionary powers, on merits or modalities of peculiarities of those cases. Relevant paragraphs are extracted below:

> "*3. No doubt, some leeway is given for the government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government [...]*
>
> *xxx xxx xxx*
>
> *5. A preposterous proposition is sought to be propounded that if there is some merit in the case, the period of delay is to be given a go-by. If a case is good on merits, it will succeed in any case. It is really a bar of limitation which can even shut out good cases. This does not, of course, take away the jurisdiction of the Court in an appropriate case to condone the delay.*
>
> *6. We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as "certificate cases". The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.*
>
> *7. We are thus, constrained to send a signal and we propose to do in all matters today, where there are such inordinate delays that the Government or State authorities coming before us must*

*pay for wastage of judicial time which has its own value. Such costs can be recovered from the officers responsible.*"

(Emphasis supplied)

**258.** The length of the 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 respondents, 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 own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, it cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the *bona fides* of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

**259.** We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of

Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

**260.** From the above exposition of law, it is abundantly clear that the High Court has erroneously condoned a massive delay of 3966 days on account of certain lapses at the administrative levels and of there being no follow-ups in the proceedings, along with finding certain merits in the case of the respondent no. 1 against the maintainability of the suit of the appellant and that of the relief molded by the First Appellate Court. We have no hesitation in stating that such grounds are nowhere near to being "*sufficient cause*" as per Section 5 of the 1963 Act. The High Court lost sight of the fact that the precedents and authorities it relied upon by it had delays of two-digits, or even that of single-digit, more particularly the delay in those cases was supported by sufficient cause. The present case, however, stands on a very different footing, owing to such an enormous delay. Hence, we are not inclined to accept the condonation of the delay by the High Court.

## V. CONCLUSION

**261.** Thus, for the reasons aforesaid, the impugned order of the High Court deserves to be set aside. Before we proceed to close this judgment, we deem it appropriate to make it abundantly clear that administrative lethargy and

laxity can never stand as a sufficient ground for condonation of delay, and we want to convey an emphatic message to all the High Courts that delays shall not be condoned on frivolous and superficial grounds, until a proper case of sufficient cause is made out, wherein the State-machinery is able to establish that it acted with *bona fides* and remained vigilant all throughout. Procedure is a handmaid to justice, as is famously said. But courts, and more particularly the constitutional courts, ought not to obviate the procedure for a litigating State agency, who also equally suffer the bars of limitation from pursuing litigations due to its own lackadaisical attitude.

**262.** The High Courts ought not give a legitimizing effect to such callous attitude of State authorities or its instrumentalities, and should remain extra cautious, if the party seeking condonation of delay is a State-authority. They should not become surrogates for State laxity and lethargy. The constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigations, wherein the fruits of their decrees or favourable orders are frustrated at later stages. We are at pains to reiterate this everlasting trend, and put all the High Courts to notice, not to reopen matters with inordinate delay, until sufficient cause exists, as by doing so the courts only add insult to the injury, more particularly in appeals under Section 100 of the CPC, wherein its jurisdiction is already limited to questions of law.

**263.** Limitation periods are prescribed to maintain a sweeping scope for the *lis* to attain for finality. More than the importance of judicial time, what worries us is the plight of a litigant with limited means, who is to contest against an enormous State, and its elaborate and never-exhausting paraphernalia. Such litigations deserve to be disposed of at the very threshold, because, say if a party litigating against the State, for whatever reason, is unable to contest the condonation of delay in appeal, unlike the present case, it reopens the *lis* for another round of litigation, and leaves such litigant listless yet again. As courts of conscience, it is our obligation that we assure that a litigant is not sent from pillar to post to seek justice.

**264.** No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law.

**265.** In the result, this appeal stands allowed. The impugned judgment and order of the High Court is hereby set aside. Apart from the costs of Rs 25,000/- imposed by the High Court, to be paid by the respondent no. 1 to the appellant, we impose an additional cost of Rs 25,000/- on the respondent no. 1, to be paid to the Karnataka State Legal Services Authority within a period of four weeks from today.

**266.** The Court of Principle Judge (Junior Division), Kalaburagi, is directed to proceed with the execution of the decree in favour of the appellant in E.P.

No. 2 of 2011, and shall ensure that the proceedings conclude within a period of 2 months from the date of this judgment.

**267.** Pending applications, if any, also stand disposed of.

**268.** Registry shall circulate one copy each of this judgment to all the High Courts.

**..... J.**
**(J.B. Pardiwala)**

**..... J.**
**(R. Mahadevan)**

**New Delhi;**
**12th September, 2025.**