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**(2015) 05 AHC CK 0037**  
**In the Allahabad High Court**  
**Case No : Consolidation No. 397 of 2015**

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|-----------------------------------|----|------------|
| Saraswati Devi and Others         | Vs | APPELLANT  |
| State of Uttar Pradesh and Others |    | RESPONDENT |

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**Date of Decision :** 29-05-2015

**Acts Referred:**

Limitation Act, 1963 — Section 5

**Citation :** (2015) 05 AHC CK 0037

**Hon'ble Judges :** Anil Kumar, J

**Bench :** Single Bench

**Advocate :** Radhey Shyam Tiwari, for the Appellant

**Final Decision :** Dismissed

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## Judgement

Anil Kumar, J.—Heard Sri Radhey Shyam Tiwari, learned counsel for the petitioners, Sri Vinay Bhushan, learned Additional Chief Standing Counsel for opposite parties No. 1 to 4 and perused the record.

2. Sri Vinay Bhushan, learned Additional Chief Standing Counsel has raised a preliminary objection to the effect that petitioner has not explained delay and laches thereby challenging the impugned order dated 3.10.1975 passed by opposite party No. 4/Consolidation Officer, Lambhua, District Sultanpur, so the present writ petition liable to be dismissed on the said ground.

3. After hearing learned counsel for the parties and going through the record, the position which emerge out that petitioners have not given satisfactory explanation rather no good ground has been given by the petitioners for approaching this Court at the belated stage so in view of the said fact as well as the law as laid down by Hon"ble the Apex Court in the case of B. Madhuri Goud Vs. B. Damodar Reddy, (2012) 7 SCALE 230 : (2012) 12 SCC 693 , the relevant portion quoted herein below :--

"The learned Single Judge of the High Court accepted the respondent's explanation and condoned the delay by observing that there were some laches

on the part of the counsel but the respondent cannot be penalised for the same.

We have heard the learned counsel for the parties. The Limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the legislature. At the same time, the courts are empowered to condone the delay provided that sufficient cause is shown by the applicant for not availing the remedy within the prescribed period of limitation.

The expression "sufficient cause" used in Section 5 of the Limitation Act, 1963 and other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice. No hard-and-fast rule has been or can be laid down for deciding the applications for condonation of delay but over the years courts have repeatedly observed that a liberal approach needs to be adopted in such matters so that substantive rights of the parties are not defeated only on the ground of delay."

4. In Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others, AIR 1987 SC 1353 : (1987) 13 ECC 27 : (1988) 19 ECR 565 : (1987) 28 ELT 185 : (1987) 167 ITR 471 : (1987) 1 JT 537 : (1987) 1 LLJ 500 : (1987) 1 SCALE 413 : (1987) 2 SCC 107 : (1987) 2 SCR 387 : (1987) 66 STC 228 : (1987) 2 UJ 29 this Court made a departure from the earlier judgments in which strict interpretation was placed on the expression "sufficient cause" and observed:

"3. The legislature has conferred the power to condone delay by enacting Section 5 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on "merits". 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 instruction of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realised that:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
3. Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay ? The doctrine must be applied in a rational common sense pragmatic manner.
4. When substantial justice and technical considerations are pitted against each

other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the "State" which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even-handed manner. There is no warrant for according a step-motherly treatment when the "State" is the applicant praying for condonation of delay. In fact 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. In any event, the State which represents the collective cause of the community, does not deserve a litigant-non-grata philosophy of the provision in the course of the interpretation of the expression "sufficient cause". So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even-handed justice on merits in preference to the approach which scuttles a decision on merits."

5. In *N. Balakrishnan Vs. M. Krishnamurthy*, (1998) 6 AD 465 : AIR 1998 SC 3222 : (1998) 2 CTC 533 : (2008) 228 ELT 162 : (1998) 6 JT 242 : (1999) 121 PLR 462 : (1998) 5 SCALE 105 : (1998) 7 SCC 123 : (1998) 1 SCR 403 Supp : (1998) AIRSCW 3139 : (1998) 7 Supreme 209 on which reliance was placed by the learned counsel for the respondent, this Court observed:

"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.

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11. 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 law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time."

6. In P.K. Ramachandran Vs. State of Kerala and Another, AIR 1998 SC 2276 : (1997) 2 CTC 663 : (1997) 72 ECR 785 : (1998) 7 JT 21 : (1998) 120 PLR 605 : (1997) 6 SCALE 209 : (1997) 7 SCC 556 : (1997) 4 SCR 204 Supp : (1997) 2 UJ 747 : (1998) AIRSCW 2177 : (1997) 8 Supreme 332 this Court reversed the order passed by the High Court for condonation of 565 days" delay in filing of an appeal by the State against the decree passed by the subordinate court and observed:

"6. Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds."

7. In Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai, AIR 2012 SC 1629 : (2012) 114 CLT 847 : (2012) 3 RCR(Civil) 73 : (2012) 4 SCALE 248 : (2012) 5 SCC 157 : (2012) AIRSCW 2412 : (2012) 2 Supreme 674 this Court referred to some of the judicial precedents and observed:

"23. What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

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."

8. Thus, keeping in view the above said position as well as facts in the present case that petitioner challenged the impugned order dated impugned order dated 3.10.1975 passed by opposite party No. 4/Consolidation Officer, Lambhua, District Sultanpur without giving any satisfactory explanation in respect of the delay, rather the reasons given to file the writ petition at a belated stage in order to condone the delay cannot be sufficient.

9. For the foregoing reasons, the writ petition is accordingly dismissed on the ground of delay and laches.