

**(2012) 05 RAJ CK 0076**

**In the Rajasthan High Court**

**Case No :** Civil Review Petition No. 102 of 2006 in Civil Special Appeal (Writ)  
No. 687 of 1997

State of Rajasthan and Others

APPELLANT

Vs

Babu Lal Sharma

RESPONDENT

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**Date of Decision :** 02-05-2012

**Acts Referred:**

Limitation Act, 1963 — Section 5

**Citation :** (2012) 05 RAJ CK 0076

**Hon'ble Judges :** Narendra Kumar Jain, J; Mahesh Bhagwati, J

**Bench :** Division Bench

**Advocate :** Lokendra Singh Shekhawat on behalf of Mr. I.R. Saini, AAG, for the Appellant; Rajendra Soni with Mr. Yogesh Soni, for the Respondent

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## **Judgement**

1. Heard learned counsel for the parties. This review petition has been preferred to review the order dated 30.03.2005 passed by the Division Bench of this Court, dismissing D.B. Civil Special Appeal (writ) No. 687/1997. Review petition has been preferred with delay of 288 days. Learned counsel for the petitioners has filed an application for condonation of delay in filing the review petition. Para No. 1 of the application reads as under:

1. That the judgment under review was delivered on 30.3.2005. However, the humble review petitioners could not immediately come to know about the decision of the appeal and it was only in the month of September 2005 when they received a copy of the judgment that they come to know about the delivery of the judgment dated 30.3.2005.

2. From the above, it is clear that the petitioners have tried to explain that the petitioners could not come to know about decision delivered by the Division Bench on 30.03.2005, whereas from the judgment passed by the Division Bench, it is clear that Mr. J.K. Agarwal, Additional Government Advocate appeared on behalf of the appellants. In these circumstances, it is apparently wrong on the part of the petitioners to mention this fact that the petitioners could not come to

know about judgment dated 30.03.2005. The order was passed in presence of learned counsel for the petitioners/appellants. The other facts mentioned in the application also do not constitute any sufficient cause for condonation of delay in filing the review petition.

3. It is relevant to record that the Hon''ble Apex Court in plethora of cases has consistently deprecated the practice of filing writ petitions and appeals after inordinate delay of the expiry of period of limitation.

4. In the case of Office of The Chief Post Master General and Others Vs. Living Media India Ltd. and Another, the Hon''ble Apex Court hammered the appellant-Government Department, who filed the Special Leave to Appeal after an inordinate delay of 427 days of the expiry of period of limitation and posed a burning question as to why should the delay be condoned mechanically, because the Government or a wing of Government was a party before them? The Hon''ble Apex Court observed that the Government Department cannot claim that they have a separate period of limitation. The law of limitation undoubtedly binds everybody including the Government. Since the Government Department miserably failed to give any acceptable and cogent reason sufficient to condone a huge delay, the Hon''ble Apex Court dismissed the appeal in limine merely on the ground of delay. The Hon''ble Apex Court relied upon some other judgments of its own court, which are cited hereto. Para No. 29 of the judgment reads thus:

In our view, it is the right time to inform all 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. 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.

5. In the case of C.W.T. v. Amateur Riders Club the Hon''ble Apex Court observed thus:

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

it affects its own interest.

6. In the case of Pundlik Jalam Patil (2008) 17 SCC 448, the Hon''ble Apex court held as under:

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

7. After referring various earlier decisions, taking very lenient view in condoning the delay, particularly on the part of the Government and Government undertaking, the Hon''ble Apex Court observed as under:

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

8. Similarly in the case of S.S. Balu and Another Vs. State of Kerala and Others, the Hon''ble Apex Court held that the delay defeats equity and relief can be denied on the ground of delay alone even though relief is granted to other similarly situated person who approached the court in time. The Hon''ble Apex Court further observed, "it is now a trite law that where the writ petitioner approaches the High Court after a long delay, relief prayed for, may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates, who obtained the benefit of the judgment."

9. In these circumstances, we are of the view that delay in filing review petition has not been explained satisfactorily and application u/s 5 of the Limitation Act deserves to be dismissed and the same is hereby dismissed.

10. That apart, we have also examined the review petition on merits and we find that there is no error apparent on the face of the record, so as to review the order passed by the Division Bench. we find no merit in this review petition also.

11. Consequently, review petition is dismissed being barred by limitation as well as on merits also. I.A. No. 3568/2006 also stands disposed off.