

**(2013) 01 JH CK 0136**  
**In the Jharkhand High Court**  
**Case No : LPA No. 135 of 2012**

The State of Jharkhand and Others

APPELLANT

Vs

Manju Suri and Another

RESPONDENT

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**Date of Decision :** 03-01-2013

**Acts Referred:**

**Citation :** AIR 2013 Jhar 68 : (2013) 2 AJR 4 : (2013) 1 JLJR 262

**Hon'ble Judges :** Prakash Tatia, C.J;P.P. Bhatt, J

**Bench :** Division Bench

**Advocate :** Saurav Arun, for the Respondent

**Final Decision :** Dismissed

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## Judgement

I.A. No. 688 of 2012

1. Heard learned counsel for the appellants on the application for condonation of delay. There is inordinate delay of 816 days in preferring the appeal and, therefore, learned counsel for the respondents has serious objection. He has relied upon the judgment of Hon''ble Supreme Court delivered in the case of Office of The Chief Post Master General and Others Vs. Living Media India Ltd. and Another, . In the said judgment, the Hon''ble Supreme Court has observed that in absence of plausible and acceptable explanation, the delay is not to be condoned mechanically merely because the Government or a wing of the Government is a party before the Hon''ble Supreme Court. Hon''ble Supreme Court in paragraph 28 further observed that 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, and in the facts of said case observed and held that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. Hon''ble Supreme Court further held that the claim on account of impersonal machinery and inherited bureaucratic methodology of making several note cannot be accepted in view of the modern technologies being used

and available. The Hon''ble Supreme Court further observed that the law of limitation undoubtedly binds everybody, including the Government. We are of the considered opinion that the courts have observed several times about the attitude of the Government and Government machinery in the matters when the petitions or appeals have been filed after inordinate delay in spite of several strictures passed against officers. The Government machinery and its instrumentalities has not improved. This has created huge problem for the Courts because of the delay in challenging the judgments even in the cases where said judgments are contrary to law and also contrary to larger Bench decisions of some High Courts and even contrary to Supreme Court decisions. If appeals against such judgments are dismissed, contrary judgments will attain the finality and that may result into giving finality to two conflicting judgments making the entire process unworkable. The lapse on the part of errant may be inadvertent but possibility of deliberate and motivated reason cannot be ruled out when the matters relate to the part of the same machinery who gets the benefit because of the dismissal due to delay. Therefore, each case is required to be considered according to the facts of the case and we may take help from the observation of the Hon''ble Supreme Court in paragraph 28 where the Hon''ble Supreme Court observed that a liberal concession has to be adopted to advance substantial justice. We are also conscious that the law is well settled that when technicalities of law is pitted against justice then justice should prevail.

2. In view of above reasons, in the facts of the case, which has been given in detail, the delay in filing this L.P.A. is to be condoned, however, on payment of cost of Rs. 10,000/-, which shall be first paid to the respondents by the State and which will be recoverable from the person guilty for causing the delay in filing the L.P.A. We are making it clear that the appeal shall be entertained only upon payment of cost of Rs. 10,000/-, which shall be paid by or before 4th February, 2013.

3. The delay is condoned, subject to above condition. I.A. No. 688 of 2012 stands disposed of. Put up this case on 4th February, 2013. The receipt of payment of cost is to be submitted by the appellant in the Registry. In case of non-payment the application as well as the L.P.A. shall stand dismissed without further reference to the Court.