2026:AHC:211299-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 994 of 2019

State Of U.P. And 03 Others

.....Appellant(s)

Versus

Committee Of Management Shastri Memorial Higher Secondary School And Another

.....Respondent(s)

Counsel for Appellant(s) : Pankaj Rai
Counsel for Respondent(s) : Arun Kumar Gupta, Prabhakar Awasthi

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Court No. - 4

HON'BLE RAJAN ROY, J.
HON'BLE ARUN KUMAR, J.

(C.M. Application No. 2 of 2019)

1. This is an application for condonation of delay in filing special appeal supported with affidavit.

2. Heard learned Chief Standing Counsel for State- appellants and Ms. Nabila, learned counsel appearing for the contesting respondents.

3. The Special Appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 has been filed by the State challenging the judgment and order dated 08.04.2019 passed by the learned Single Judge in Writ - C No. 50811 of 2012.

4. There is a delay of 189 days in filing the special appeal which is inordinate. The delay has not been condoned as yet. The limitation prescribed for filing such appeals under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 is 30 days vide Chapter IX Rule 10 of the Rules, 1952 read with Article 117 of the Schedule appended to the Limitation Act, 1963. We have gone through the affidavit filed in support of the application for condonation of delay in filing special appeal and found that except for narrating as to how the file moved from one desk/ office or department/ sections to another, nothing else has been stated which could persuade the Court to condone the delay in filing the appeal. The judgment impugned was passed on 08.04.2019. There is a

battery of lawyers appearing for the State of U.P. in every Court and the judgment impugned is not a reserved judgment, therefore, it must have been pronounced in open Court and information in regard must have been sent by the Office of the Chief Standing Counsel to the appellants but there is no whisper about it in the affidavit seeking condonation of delay. Though, the judgment was passed on 08.04.2019 the appeal was filed only on 15.11.2019. We do no find any reason to accept the explanation offered in the affidavit filed in support of the application of condonation of delay when tested on the anvil of the decision of Hon'ble the Supreme Court rendered in the case of ***Shivamma (Dead) by LRS vs. Karnatka Housing Board and another*** reported in ***2025 SCC OnLine 1969*** decided on 12.09.2025..

5. Accordingly, the application for condonation of delay is rejected.

6. Consequently, the Special Appeal also stands **dismissed.**

(Arun Kumar,J.) (Rajan Roy,J.)

October 8, 2026
R.K.P.

Digitally signed by :-
RAJ KUMAR PATEL
High Court of Judicature at Allahabad