



2026:DHC:1381



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 27.11.2025*  
*Judgment pronounced on: 16.02.2026*  
*Judgment uploaded on: 24.02.2026*

+ **CRL.REV.P. 482/2025**

MS. X

.....Petitioner

Through: Mr. Shahrukh Alam, Mr.  
Shantanu Singh, Mr. Anupam  
Kirti, Mr. Akshat Chaitanya,  
Advocates

versus

THE STATE OF NCT OF DELHI AND ORS. ....Respondents

Through: Mr. Naresh Kumar Chahar,  
APP for the State with Ms.  
Amisha Dahiya, Advocate  
Mr. Sandeep Kapur, Mr. Rose  
Verma, Advocates for R-2.  
Mr. Vikas Pahwa, Sr.  
Advocate along with Mr.  
Sandeep Kapur, Mr. Jugal  
Wadhwa, Mr. Rose Verma,  
Mr. Raghav Goel and Ms.  
Priyal Jain, Advocates for R-3.

**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****Index to the Judgment**

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**DR. SWARANA KANTA SHARMA, J.**

**CRL.M.A. 35118/2025 (for condonation of delay of 281 days in  
filing revision petition)**

**INTRODUCTION**

1. The petitioner has approached this Court, by way of the above-captioned revision petition filed under Sections 438 read with 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [hereafter ‘BNSS’], seeking setting aside of the impugned order dated 19.12.2024, passed by the learned Principal District & Sessions Judge, South District, Saket Courts, Delhi [hereafter ‘District & Sessions Judge’], in Cr.No. 467/2024. By way of the said order, the learned District & Sessions Judge was pleased to set aside the order dated 30.09.2024, passed by the learned ACJM, South District, Saket Courts, New Delhi [hereafter ‘ACJM’], wherein the respondent no. 2 and 3/accused persons had been summoned for offence under Sections 465/466/469/471/120 of the Indian Penal Code, 1860 [hereafter ‘IPC’] in CT No. 369/2021 instituted by the petitioner herein.



2. However, the present application under Section 528 of the BNSS read with Section 5 of the Limitation Act, 1963 has been filed – seeking condonation of delay of 281 days in filing the present revision petition.

### **RIVAL CONTENTIONS**

3. On the issue of condonation of delay, the learned counsel appearing for the petitioner submits that the delay in filing the present revision petition is neither deliberate nor intentional. It is argued that immediately after passing of the impugned order dated 19.12.2024, the petitioner had approached this Court well within the period of limitation by filing a petition under Section 528 of the BNSS being Crl. M.C. No. 3826/2025. However, the said petition came to be dismissed as withdrawn *vide* order dated 27.05.2025, with liberty to file afresh, on account of certain typographical and bookmarking errors. It is further submitted that thereafter, this Court remained closed for Summer Vacation from 01.06.2025 to 30.06.2025, and the counsels were also on recess during the said period, which resulted in unavoidable delay in initiating fresh proceedings. It is stated that after the Court reopened, the petitioner engaged another counsel on 06.07.2025 for filing a fresh petition. The newly engaged counsel required time to procure complete copies of documents and to inspect the record before the learned Principal District & Sessions Judge, South District, Saket Courts. During such inspection, certain annexures were found to be missing, and additional time was spent in



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obtaining the same from the counsel who had earlier handled the matter before the District Court. The learned counsel submits that once all necessary documents were received, a fresh petition under Section 528 of the BNSS was filed on 07.08.2025, being CrI. M.C. No. 5654/2025. The said petition, however, was withdrawn vide order dated 22.09.2025 in order to avail and pursue alternate legal remedies available under law. It is thereafter submitted that some reasonable time was consumed in consulting the counsel and in taking steps for preparation and filing of the present revision petition, including time taken to apply for and obtain certified copies of documents from the Court of learned District & Sessions Judge, which were applied for on 17.10.2025 and received on 28.10.2025, after the Court resumed functioning post Diwali vacation. It is thus contended that the delay of 281 days in filing the present revision petition has occurred due to *bona fide* reasons, procedural circumstances, and factors beyond the control of the petitioner, without any malafide intention, negligence or deliberate inaction. The learned counsel further submits that a liberal approach ought to be adopted while considering an application for condonation of delay in a criminal revision, as dismissal on the ground of limitation alone may result in perpetuation of an otherwise illegal order passed by the court below. The learned counsel for the petitioner also submits that while deciding the present application for condonation of delay, this Court may also take into consideration the merits of the case as well as the circumstances in which the impugned order was passed. It is



further submitted that the petitioner is a woman and was not being assisted by a lawyer for a considerable period, which has resulted in the delay in filing the present revision petition. It is therefore prayed that the delay be condoned in the interest of justice.

4. The learned counsels appearing for respondent nos. 2 and 3 have strongly opposed the present application seeking condonation of delay, contending that the petitioner has failed to furnish any satisfactory explanation for the inordinate delay of 281 days in filing the petition. It is submitted that the impugned order dated 19.12.2024 was passed in the presence and knowledge of the petitioner, and the subsequent conduct of the petitioner clearly demonstrates a lack of diligence and seriousness in pursuing the remedy available in law. The learned counsels submit that the petitioner was duly served in the revision proceedings before the learned District & Sessions Judge through her own email address, which was consistently reflected on the trial court record and had been furnished by the petitioner herself. Reliance is placed on the affidavit of service dated 03.12.2024, along with the email screenshot and the certificate under Section 65B of the Indian Evidence Act, to contend that the plea of non-service raised by the petitioner is wholly untenable. It is further argued that despite such service, the petitioner deliberately chose not to appear before the revisional court on multiple dates and allowed the matter to proceed *ex parte*, only to later raise objections on the ground of violation of principles of natural justice. It is also submitted that the petitioner took contradictory stands before different courts regarding her



knowledge of the revision proceedings. The learned counsels point out that even after the impugned order was passed, the petitioner adopted a casual approach by filing petitions belatedly, allowing them to remain under objections for long periods, withdrawing them on account of basic defects such as typographical errors and improper bookmarking, and re-filing after unexplained gaps of time. It is contended that such conduct reflects negligence and want of due diligence. The learned counsels thus submit that the petitioner is not entitled to any indulgence from this Court and that the present application seeking condonation of delay, as well as the accompanying revision petition, deserve to be dismissed as barred by limitation.

5. This Court has **heard** arguments addressed on behalf of the petitioner, as well as the respondents, and has perused the material placed on record.

### **ANALYSIS & FINDINGS**

#### **A. Conduct of the Petitioner Before the Courts Below**

6. The order impugned before this Court, by which the petitioner claims to be aggrieved, was passed on 19.12.2024. While deciding the present application seeking condonation of delay, this Court is conscious of the settled position of law that it is not required to examine the merits of the case which was pending before the courts below. However, the conduct of the petitioner, particularly in relation



to her knowledge of the proceedings and her approach before the learned District & Sessions Judge, is a relevant factor while assessing the *bona fides* of the explanation offered for the delay. This aspect has also been emphasised by the learned counsel for the petitioner, who has contended that the facts and circumstances in which the impugned order came to be passed be taken into consideration while adjudicating the present application.

7. In this regard, it is necessary to note that before the learned District & Sessions Judge, the petitioner had taken a plea that she required legal assistance and that she could not effectively contest the proceedings in the absence of a counsel. The record, however, reflects that despite service of notice, the petitioner did not appear before the said Court on the dates when the matter was listed for hearing. As recorded in the order dated 03.12.2024, the learned District & Sessions Judge noted that the petitioner had been duly served, supported by an affidavit of service along with proof of service through email, and yet chose not to appear. Specifically, the learned counsel for the accused persons had filed an affidavit of service dated 03.12.2024 before the learned District & Sessions Judge, wherein it was stated that a copy of the revision petition had been served upon the respondent no. 2 therein, who is the petitioner herein, on her email address. A copy of the screenshot of the said email, along with a certificate under Section 65B of the Indian Evidence Act, was also annexed thereto.



8. Arguments were thereafter heard on 05.12.2024, when the petitioner herein did not appear before the Court, and the matter was listed for orders on 19.12.2024, with a clear observation that the counsel for the petitioner herein could still appear on any date prior to the above said date or on the said date to address arguments, if so desired. It is also relevant to note that on 06.12.2024 itself, when the matter came up before the learned ACJM, the petitioner stated that she was unaware of the pendency of the revision proceedings. This assertion stood contradicted by the accused's counsel, who placed on record copies of the orders passed by the learned District & Sessions Judge, including the order staying the operation of the summoning order. The learned ACJM, therefore, deferred the proceedings, awaiting the outcome of the revision petition. It is relevant to note that till 19.12.2024, the petitioner herein or her counsel did not appear before the learned District & Sessions Judge to address any arguments.

9. On 19.12.2024, the petitioner appeared before the learned District & Sessions Judge, and again took the stand that she had not been served and had no knowledge of the revision proceedings. In support of this plea, the petitioner filed an application before the learned District & Sessions Judge alleging that the *ex-parte* stay granted *vide* order dated 21.10.2024 had been passed without affording her an opportunity of hearing and in violation of the principles of natural justice. The learned District & Sessions Judge, however, after considering the record and the said application filed



by the petitioner, rejected her plea, noting that she had been duly served and that the application itself reflected legal assistance, contrary to her claim of being a lay person unfamiliar with law. The Court further observed that a party seeking equity must approach the Court with clean hands and declined to grant indulgence on the basis of what appeared to be an attempt to delay the proceedings. Even thereafter, an opportunity was afforded to the petitioner to address arguments on the same day, which she chose not to avail.

10. The learned counsels appearing for respondent nos. 2 and 3 herein have also drawn the attention of this Court to the fact that the email address on which the petitioner was served with the notice of the revision petition before the learned District & Sessions Judge was the same email address which was consistently reflected on the trial court record throughout the proceedings. It is submitted that the said email address was furnished by the petitioner herself and was the officially available mode of electronic communication on record. Although the learned counsel for the petitioner now contends that the notice was not sent to her new email address, it is not disputed that the email address used for service was the very same address which had been provided by the petitioner during the trial.

11. The learned counsel appearing for the respondents has further placed on record the reply sent by Program Manager (PAN India) Law Enforcement & Compliances, OLA CABS to the Investigating officer, in reply to a notice sent to it, wherein the same email address



of the petitioner is reflected, which reflects that the said email address was consistently available and in use by the petitioner herein.

12. The learned counsel for the petitioner has argued that the petitioner is a lay woman who could not properly defend herself. While this Court is mindful of the difficulties faced by litigants who are not legally trained, the issue before this Court is not the correctness of the proceedings before the learned District & Sessions Judge, but whether the petitioner has been able to satisfactorily explain the delay of 281 days in approaching this Court. The petitioner is required, at the threshold, to cross this hurdle by demonstrating sufficient cause in accordance with the principles laid down by the Hon'ble Supreme Court.

13. This Court has referred to the orders passed by the learned District & Sessions Judge and the learned ACJM only to highlight that the petitioner was aware of the proceedings and of the necessity of seeking legal assistance and engaging a counsel in a timely manner, particularly when she had already suffered an adverse order due to her own conduct. These aspects assume relevance while examining the explanation offered for the delay in filing the present petition and the overall *bona fides* of the petitioner.

**B. Knowledge of the Impugned Order and Delay in Filing the Present Petition**

14. Be that as it may, the core issue before this Court remains whether the delay in filing the present revision petition deserves to be



condoned so as to enable the petitioner to be heard on the merits of the petition impugning the order dated 19.12.2024.

15. Having heard the arguments addressed on behalf of all the parties and having perused the record, this Court is of the considered view that the impugned order was passed on 19.12.2024, and was well within the knowledge of the petitioner. The explanation offered by the petitioner for the delay has already been noticed hereinabove while recording the submissions of the learned counsel for the petitioner.

16. The petitioner has stated that she had initially approached this Court by filing Crl. M.C. No. 3826/2025 titled *Ms. X v. The State of NCT of Delhi & Ors.*, seeking quashing of the impugned order, which, according to her, was filed on 19.03.2025 and was later dismissed as withdrawn with liberty to file afresh *vide* order dated 27.05.2025 on account of typographical and bookmarking errors. However, the learned counsel appearing for the respondents has drawn the attention of this Court to the fact that the case status reflected on the website of this Court shows the date of filing of the said petition as 26.05.2025 and not 19.03.2025. In response, the learned counsel for the petitioner has placed on record a copy of an SMS allegedly received regarding filing of the said petition.

17. Be that as it may, even if the petitioner's version is accepted for the sake of argument, it is not disputed that the said petition remained under objections and was ultimately withdrawn on



27.05.2025. In such circumstances, the said petition can be treated as having been effectively filed only on 26.05.2025. To take a contrary view would amount to accepting that a litigant can file a petition on a particular date, allow it to remain under objections for months together, and thereafter claim the benefit of the earlier date of filing, which cannot be countenanced. It is further noted that by the time the first petition was withdrawn on 27.05.2025, more than five months had already elapsed from the passing of the impugned order. Despite this, the petition was withdrawn merely on account of typographical errors and issues relating to bookmarking of annexures. No explanation has been furnished as to why such basic defects could not have been rectified promptly.

18. The petitioner thereafter states that due to the ensuing summer vacations and because her counsel was on recess, a fresh petition could not be filed immediately. It is stated that a new counsel was engaged only on 06.07.2025, that is, after about one and a half months of withdrawal of the earlier petition, and that the newly engaged counsel took further time in procuring documents and preparing the case. The second petition, being Crl. M.C. No. 5654/2025, was eventually filed on 07.08.2025, more than two months after the withdrawal of the earlier petition. Even this petition was subsequently withdrawn on 22.09.2025 in order to pursue what was stated to be an alternate remedy under law.

19. The present revision petition has been filed only on



24.11.2025, nearly two months after withdrawal of the second petition. No cogent explanation has been offered as to why, after 22.09.2025, the petitioner again took nearly two months to approach this Court by way of the present proceedings, except stating that it took time between 17.10.2025 and 28.10.2025 to obtain some certified copies from the court of learned District & Sessions Judge.

20. What thus emerges from the record is that there is no explanation as to why, even after the impugned order was passed on 19.12.2024, no petition was filed till 19.03.2025. There is also no satisfactory explanation as to why the objections in the first petition were not cleared for nearly two months. Further, there is no explanation as to why, after withdrawal of the first petition, a fresh petition was not filed immediately, and instead, a new counsel was engaged after more than a month, followed by another month taken for preparation and filing the petition. Finally, there is absence of any explanation for the delay of nearly two months after withdrawal of the second petition in September 2025, before filing the present revision petition.

21. It is, therefore, evident that the petitioner has neither pursued the matter with urgency nor demonstrated due diligence at any stage. The delay of 281 days sought to be condoned is not supported by a cogent or satisfactory explanation covering the entire period of delay.



### C. Judicial Principles Governing Exercise of Discretion in Condonation of Delay

22. The law on the point of condonation of delay is clear and well-settled. The Hon'ble Supreme Court in *Pathapati Subba Reddy v. Collector (LA): (2024) 12 SCC 336*, has reiterated that while Section 5 of the Limitation Act may be construed liberally, such liberality cannot be extended to defeat the substantive law of limitation. It has been categorically held that the power to condone delay is discretionary and may not be exercised even where sufficient cause is claimed, particularly in cases involving inordinate delay, negligence or lack of due diligence. The following principles in respect of condonation of delay were enumerated by the Hon'ble Supreme Court:

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

**28.1.** 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;

**28.2.** 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;

**28.3.** 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;

**28.4.** 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;

**28.5.** 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;

**28.6.** 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;

**28.7.** Merits of the case are not required to be considered in condoning the delay; and

**28.8.** 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.”

23. Similarly, in *H. Guruswamy v. A. Krishnaiah*: 2025 SCC OnLine SC 54, the Hon’ble Supreme Court emphasised that the length of delay is a relevant factor and that once a party loses its right due to prolonged inaction, it cannot invoke the principle of substantial justice as a matter of course. The Court is first required to test the *bona fides* of the explanation offered, and only if the explanation inspires confidence can discretion be exercised. The relevant observations are set out below:

“**16.** The length of the delay is definitely 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 herein, it appears that they want to fix their own period of limitation for the purpose of 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, he 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.

**17. 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. No court should keep the ‘Sword of Damocles’ hanging over the head of a litigant for an indefinite period of time.”**

(Emphasis Supplied)

24. Most recently, the Hon’ble Supreme Court in *State of Odisha & Ors. v. Managing Committee of Namatara Girls High School: 2026 INSC 148 (order dated 09.02.2026)*, has observed that condonation of delay cannot be claimed as a matter of right, and it is entirely the discretion of the Court whether or not to condone delay. The Supreme Court also drew a clear distinction between an “explanation” and a “mere excuse” and refused to condone the delay of 123 days in filing the Special Leave Petition and a further delay of 96 days in re-filing the same. It has been held as under:

“16. *Katiji* (supra) and *Ramegowda* (supra) were consistently followed by this Court until adoption of a different and seemingly strict approach while dealing with applications for condonation of delay during the last decade and a half became discernible starting with the decision in *Postmaster General v. Living Media India Limited*<sup>11</sup>, where a delay of 427 days in filing the relevant special leave petition was not condoned. *University of Delhi v. Union of India*<sup>12</sup> is another decision (of a three- Judge Bench of this Court) where delay of 916 days was not condoned. While upholding the decision of the



relevant high court under challenge refusing to condone the delay of 5659 days in presentation of an appeal under Section 54 of the Land Acquisition Act, 1894 by the heirs of a deceased landowner, a coordinate Bench in *Pathapati Subba Reddy v. Collector(LA)*<sup>13</sup> very recently reiterated that the law of limitation is founded on public policy, the object is that a legal remedy is put to an end so that no litigation remains pending for an indefinite period. It was also held, departing from the earlier view, that the merits of the case cannot be considered at the stage of considering the application for condonation of delay.

17. Indeed, one of us [Dipankar Datta] in *Sheo Raj Singh v. Union of India*<sup>14</sup> authoring the judgment for a coordinate Bench adopted the view taken in *Katiji* (supra), *Ramegowda* (supra) and a host of other decisions following the same while not interfering with an order of condonation of delay passed by the relevant high court. However, it was observed that a distinction ought to be drawn between an ‘explanation’ and an ‘excuse’ that is proffered as cause for condonation of delay. It was also emphasized that a different approach has to be adopted while this Court is considering an application for condonation of delay in presentation of an appeal/application and when it sits 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 has to be examined.

18. However, what perhaps remained unnoticed in any of the decisions post *Katiji* (supra) and *Ramegowda* (supra) adopting a liberal approach is the exasperation and consequent lament expressed by none other than Hon’ble M.N. Venkatachaliah, CJI. in course of authoring a brief order in *Commissioner of Wealth Tax, Bombay v. Amateur Riders Club, Bombay*<sup>15</sup> and admonishing officers of the “revenue” in not acting with promptitude. This order was made within six years of the decision in *Ramegowda* (supra). We can do no better than quoting the same in its entirety hereunder:

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19. Reading *Ramegowda* (supra) and *Amateur Riders* (supra), one after the other, leaves none in doubt that it did not take much time for this Court to lose hope. It is absolutely clear that



the law was laid down in *Ramegowda* (supra), following *Katiji* (supra), with much optimism that matters would improve. Their Lordships, however, found no visible support for such optimism and the Court's patience having been tested to the extreme limit, held that there is a point beyond which even the courts cannot help a litigant even if the litigant labouring under the shackles of bureaucratic indifference is the Government.

20. We have found the State of Odisha to be utterly lethargic, tardy and indolent not only before the High Court but also before this Court. Notwithstanding that its appeal was dismissed as time-barred by the High Court, this Court has been approached by the State of Odisha four months after expiry of the period of limitation.

21. Condonation of delay cannot be claimed as a matter of right. It is entirely the discretion of the Court whether or not to condone delay. Despite all the latitude that is shown to a "State", we are of the clear opinion that the cause sought to be shown here by the State of Odisha is not an explanation but a lame excuse. No case for exercise of discretion has been set up.

22. The applications for condonation of delay in filing the special leave petition and condonation of delay in re-filing the same, thus, stand rejected, with the result that the special leave petition stands dismissed as time-barred."

#### **D. Finality of Lis and Balancing of Rights of the Complainant and the Accused**

25. Thus, the law of limitation is founded on the principle that litigation must attain finality and that a *lis* cannot be permitted to remain alive indefinitely. While courts are empowered to condone delay in appropriate cases, such indulgence is not a matter of generosity or sympathy, but of judicial discretion to be exercised on settled principles. A litigant who is not diligent in pursuing the remedies available in law and who approaches the Court in a casual or indifferent manner cannot seek condonation of delay as a matter of



right.

26. This Court is also of the opinion that the concept of a fair trial does not operate in isolation or only in favour of one party. Fairness in the administration of justice has to extend to all the stakeholders in the process, and while the complainant is entitled to avail remedies in accordance with law, the accused is also equally entitled to certainty and finality in proceedings. The Courts are, therefore, required to carefully balance the competing interests between the parties, and condoning delay in cases where the litigant has failed to act with due diligence would not further the cause of justice, but would instead prolong the *lis* to the prejudice of the opposite party, who is entitled to repose after the grant of relief in accordance with law.

#### **E. The Decision**

27. Applying the aforesaid principles to the facts of the present case, this Court finds that the explanation tendered by the petitioner does not meet the threshold of “sufficient cause” within the meaning of Section 5 of the Limitation Act. As noted hereinabove, the petitioner has failed to explain the delay at multiple stages, including the period immediately following the passing of the impugned order dated 19.12.2024, the prolonged time taken in clearing objections in the first petition, the withdrawal of the said petition on account of basic defects, the delay in engaging a new counsel and filing a fresh petition, and the further unexplained delay of nearly two months after withdrawal of the second petition in September 2025.



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28. In the absence of any credible or satisfactory explanation accounting for the delay of 281 days, this Court finds no justification to exercise its discretionary jurisdiction in favour of the petitioner.

29. Consequently, the present application seeking condonation of delay stands dismissed.

30. As a necessary corollary, the accompanying revision petition is also dismissed.

31. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**FEBRUARY 16, 2026/A**

*T.D.*