

GAHC010265342019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

**Case No. : I.A.(Civil)/3830/2019 in
WP(C)/593/2011**

ASSAM CO-OPERATIVE APEX BANK LTD. and 2 ORS
REP. BY ITS MANAGING DIRECTOR, AND HAVING ITS REGD. OFFICE AT
PANBAZAR, GHY.- 781001, DIST.- KAMRUP(M), ASSAM.

2: MANAGING DIRECTOR
ASSAM CO-OPERATIVE APEX BANK LTD
PANBAZAR
GHY.-781001
DIST.- KAMRUP(M)
ASSAM.

3: STATE PUBLIC INFORMATION OFFICER
ASSAM CO-OPERATIVE APEX BANK LTD
PANBAZAR
GHY.-781001
DIST.- KAMRUP(M)
ASSAM

VERSUS

ASSAM INFORMATION COMMISSION AND 4 ORS
REP. BY THE STATE CHIEF INFORMATION COMMISSIONER, ASSAM AND
HAVING ITS OFFICE AT HOUSEFED COMPLEX, DISPUR, GHY.-06, DIST.-
KAMRUP(M), ASSAM.

2:THE STATE CHIEF INFORMATION COMMISSIONER
ASSAM
HOUSEFED COMPLEX
DISPUR
GHY- 06
DIST. KAMRUP(M)
ASSAM.

3:THE STATE INFORMATION COMMISSIONER
ASSAM
HOUSEFED COMPLEX
DISPUR
GHY- 06
DIST. KAMRUP(M)
ASSAM.

4:THE SECY. AND REGISTRAR
ASSAM INFORMATION COMMISSION
HOUSEFED COMPLEX
DISPUR
GHY- 06
DIST. KAMRUP(M)
ASSAM.

5:DILIP KUMAR MAHAJAN
R/O DIHING SATRA
NORTH GUWAHATI
KAMRUP
ASSAM

Advocate for the Petitioner : MR. P N GOSWAMI

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

30.11.2022

Heard Shri A Baruah, learned counsel for the applicants-Bank whereas Shri D Deka, learned Standing Counsel, Assam Information Commission is present for the respondent nos. 1 to 4. Though the respondent no. 5 had been served by substituted method, he has chosen not to appear.

2. The instant interlocutory application has been filed for condonation of delay of 758 days in filing the application for restoration of WP(C)/593/2011.

3. Shri Baruah, learned counsel has submitted that the applicants were not aware of the dismissal of the writ petition for default. On an enquiry long after the date of dismissal, the aforesaid fact could be detected and therefore, the delay in filing the restoration application has occurred. The learned counsel submits that there is no willful and deliberate delay or laches on the part of the applicants or the counsel and the default was due to inadvertence and factors beyond control of the applicants.

4. Shri Deka, learned Standing Counsel submits that the delay is an inordinate one and the explanation does not appear to be adequate. He, however, fairly submits that on principle, he would not like to oppose the delay as important questions of law are involved in this writ petition.

5. The question of applicability of the Limitation Act, 1963, *per se* in a writ proceeding has been settled by a Constitution Bench of the Hon'ble Supreme Court in a case of ***State of Madhya Pradesh Vs. Bhailal Bhai***, reported in **AIR 1964 SC 1006**. The Hon'ble Supreme Court had laid down that though there is no strict application of the law of limitation, it is the laches which would play a relevant role. It has further been laid down that what is barred by limitation is also to be held as being barred by the principles of laches in almost all cases. The relevant part of the said judgment is extracted hereinbelow:

“21. Learned counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art 226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a Civil Court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable.”

6. In the instant case, the reason that has been cited is because of lack of knowledge regarding the dismissal of the writ petition. However, this Court cannot be oblivious of the fact that the delay is an inordinate one of around 758 days. This Court being a Court of Equity, cannot ignore such inordinate delay. However, taking a broad view of the matter and also keeping into account the question of law involved in the writ petition, the present application for condonation of delay is allowed subject to payment of cost of Rs. 5,000/- (Rupees Five thousand) only which shall be deposited in favour of the Gauhati High Court Legal Services Authority. Such cost be deposited within a period of 1 month from today.

7. Interlocutory application stands disposed of.

JUDGE

Comparing Assistant