



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

OMP(M) No.55 of 2024 in
CARBC No.13 of 2025

Judgment reserved on: 6.10.2025

Date of Decision: 10.10.2025

Himachal Pradesh State Electricity Board Limited

.....Petitioner/Objector

Versus

HCL Infotech Limited

... Respondent

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹ Yes.

For the Petitioner: Ms. Sunita Sharma, Senior Advocate with
Mr. Dhananjay Sharma, Advocate.

For the Respondents: Mr. Suneet Goel, Senior Advocate with Mr.
Vivek Negi and Mr. Amitesh Mishra,
Advocates.

Sandeep Sharma, Judge

By way of instant application filed under Section 34(3) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'Act'), prayer has been made on behalf of the applicant/petitioner for condonation of delay in filing the accompanying objections/petition under Section 34(1) & (2) of the Act.

2. Averments contained in the application, which is duly supported by an affidavit, reveal that the applicant/petitioner has preferred objections under Section 34 of the Act before this Court, laying therein challenge to award dated 15.03.2024 passed by the

¹ Whether the reporters of the local papers may be allowed to see the judgment?

sole Arbitrator in the matter of arbitration between ***HCL Infotech Limited vs. Himachal Pradesh State Electricity Board Limited***,

which is pending adjudication before this Court. As per the applicant/petitioner, award laid challenge in the instant proceedings was passed by learned Arbitrator on 15.03.2024, signed copy whereof was received in the office of the applicant/objector on 21.03.2024. It is averred that since services of the Junior Engineer, who was dealing with the subject matter were requisitioned by the District Administration, Shimla in connection with the General Election, which otherwise came to be announced in the mid of May, 2024, he remained on election duty till the end of the first week of June, 2024 when the election process came to an end, matter for filing objections under Section 34 of the Act could not be processed well within time.

3. However, in the absence of afore official, file was got processed and sent for obtaining the legal opinion to the Legal Unit of the Board, which advised to obtain the opinion of Legal Consultant. The matter was placed before the competent authority for consideration i.e. Director (Personnel), who on 17.05.2024, decided to discuss the matter with the Consultant (Law) Himachal Pradesh State Electricity Board Limited. During discussion, it was desired by the authority to obtain the views/opinion of learned Senior counsel, who represented the Board before the learned Arbitrator.

4. Though, learned counsel representing the applicant/ objector before the Arbitrator was contacted on phone with regard to his availability for the purpose of discussions, but he advised official of applicant/petitioner to visit his office in the second week of June, 2024 due to his busy schedule. Again on 18.06.2024, learned Senior counsel was again contacted, who asked to hand over the case file in his chamber for examining the same. The case file was delivered in the office of learned Senior Counsel, who represented the applicant/objector before the learned Arbitrator on 24.06.2024. Ultimately on 30.06.2024, learned Senior counsel opined that it is a fit case for assailing the award by filing objections under Section 34 of the Act. Thereafter, the matter was processed further for obtaining approval of the competent authority and the file was sent to the Managing Director of the organization on 05.07.2024 for his approval in the matter. Since Managing Director was on leave w.e.f.27.06.2024 to 11.07.2024, approval could not be obtained, as a result thereof, matter was taken up with the next higher authority, who taking into account the gravity of the matter, requisitioned the file on 12.07.2024 and gave approval to assail the award. Immediately on approval of the competent authority, matter was processed and petition under Section 34 of the Act was filed on 12.07.2024.

5. It is averred in the petition that delay in filing the petition under Section 34 of the Act is neither intentional nor deliberate, but owing to the reasons and circumstances as discussed hereinabove.

6. Prayer made on behalf of the applicant/petitioner came to be seriously refuted at the behest of the non-applicant/respondent by way of filing reply. It came to be stated in the reply that no plausible explanation has been rendered on record qua inordinate delay in filing the accompanying objections. Non-applicant/respondent averred in the reply that though application for condonation of delay has been filed within a period of 30 days beyond prescribed period of 90 days, but such action, if any, shall not exempt applicant/ petitioner from rendering explanation qua entire period of delay i.e. 120 days.

7. Though, having taken note of afore objection taken by the non-applicant/respondent, applicant/petitioner by way of rejoinder attempted to further justify the delay, but if rejoinder is perused in its entirety, it clearly suggests that there is nothing new, but some elaboration has been made with regard to the facts otherwise detailed in the application for condonation of delay filed at first instance. Since at the time of initial hearing, this Court was not satisfied with the explanation rendered on record qua delay in filing the accompanying objections under Section 34 of the Act, the applicant/petitioner pursuant to the orders passed by this Court, filed supplementary

affidavit in continuation of the application filed for condonation of delay under Section 34(3) of the Act, but perusal thereof suggests that delay in maintaining the accompany petition has been attempted to be justified on the ground that since objections under Section 34(3) of the Act have been filed well within extendable limitation/ grace period of 30 days, same can be condoned by this Court upon showing sufficient cause. It is submitted in the supplementary affidavit that there is delay of 22 days in filing the objections, which occurred on account of bona-fide and unavoidable reasons.

8. While fairly admitting factum with regard to receipt of signed copy of the award in the office of the applicant/objector on 21.03.2024, it is submitted at the behest of the applicant/ petitioner that in terms of Section 31(5) read with Section 34(3) of the Act, the period of limitation for filing objections is required to be reckoned from the date on which the parties have received the signed copy of the award. Accordingly, the statutory period of three months for filing objections commenced from 21.03.2024, being the date of receipt of signed copy of the award by the applicant/objector. It has been further reiterated in the supplementary affidavit that Election Commission of India announced the schedule of the General Elections of the Lok Sabha on 16.03.2024 and for that purpose, services of Sh. Divesh Bhardwaj, Junior Engineer and Sh. Gokul Gour, Computer Operator,

who were dealing with the present case, were requisitioned by the District Administration, Shimla for election duties vide office orders dated 11.12.2023 & 10.04.2024 (Annexure A-1 colly). Since afore officials remained on election duty w.e.f. 14.12.2023 & 10.04.2024, and were formally relieved by the District Administration, Shimla vide office orders dated 05.06.2024 and 10.06.2024 respectively, matter could not be processed by the office of the applicant/objector due to non-availability of the concerned officials as well as the assisting staff. Subsequently, in view of the gravity of situation, matter was initially processed by the concerned dealing hand on 08.04.2024 and thereafter same was placed before the Senior Executive Engineer (IT), who after having examined the case forwarded the same to the Chief Engineer (P&M), Vidyut Bhawan, Shimla on 10.04.2024. The Chief Engineer (P&M), after examining the matter, transmitted the file from Legal Cell to the Board on the same date i.e. 10.04.2024 for further scrutiny and for obtaining legal opinion. The matter was examined by the Under Secretary (Law) and thereafter on 09.05.2024 the file was forwarded to the competent authorities of the Board on the same date for consideration and further necessary action. The competent authority of the Board marked the case file to the Consultant (Law) on 17.05.2024 for further legal scrutiny and examination, who further advised department concerned to file

objections under Section 34 of the Act. Since some delay occurred on account of non-availability of learned Senior counsel, who had represented the applicant/petitioner before learned Arbitrator, matter could not be processed well in time for filing objections under Section 34 of the Act. Ultimately, after receipt of legal opinion of learned Senior Counsel, who had represented the applicant/petitioner before learned Arbitrator, matter was placed before the Managing Director on 05.07.2024 for his approval. Since Managing Director was on leave w.e.f. 27.06.2024 to 11.07.2024, proposal to file objections under Section 34 of the Act was further delayed and ultimately file was recalled and placed before the Chairman, who taking into account the gravity of the matter, accorded approval for assailing the impugned award and thereafter objections were filed under Section 34 of the Act.

9. I have heard learned counsel representing the parties and gone through the pleadings adduced on record by the respective parties.

10. Before ascertaining the correctness of rival submissions made by learned counsel for the parties, it would be apt to take note of Section 34 of the Act, herein below:-

“34. Application for setting aside arbitral award.—(1)

Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if—

(a) the party making the application ¹ [establishes on the basis of the record of the arbitral tribunal that]—

(i) a party was under some incapacity, or
(ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration: Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that—

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

[Explanation 1.—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice. Explanation 2.—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.]

[(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence.]

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal: Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the

opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award.

1 [(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.

(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party.]

11. As per Section 34(3) of the Act, objections can be filed against the arbitral award within a period of three months from the date of receipt of the award or from the date of disposal of the request made under Section 33 of the Act. In terms of the proviso to Section 34(3) of the Act, in case the Court is satisfied that the applicant was prevented by sufficient cause from making the application against the arbitral award within the prescribed period of three months, it may entertain the application within a further period of thirty days, but not thereafter.

12. Admittedly, in the instant case, objections were not preferred within the prescribed period of three months from the date of receipt of the arbitral award, rather same have been filed within the further period of thirty days, which can be made available to a party in given facts and circumstances, in terms of proviso to Section 34(3) of the Act, upon satisfaction of the Court that the applicant was prevented by sufficient cause from making the application within the prescribed period of three months.

13. In this regard, reliance is placed upon the judgment passed by Hon'ble Apex Court in **State of West Bengal represented through Secretary & Ors. Vs. Rajpath Contractors and Engineers Ltd., (2004)7 SCC 257**, wherein Hon'ble Apex Court held that prescribed period under Section 34(3) of the Act is three months and further that given the language used in proviso to Sub-Section 3 of Section 34 of the Act, applicability of Section 5 of Limitation Act to the petition under Section 34 of the Act has been excluded. The period of thirty days beyond three months which the Court may extend on sufficient cause being shown under the proviso to Section 34(3) of the Act is not the 'period of limitation' therefore, not the 'prescribed period. Relevant paras from the judgment read as under: -

"9. We may note here that Section 43 of the Arbitration Act provides that the Limitation Act shall apply to the arbitrations as it applies to proceedings in the Court. We may note here that the consistent view taken by this Court right from the decision in the case of Union of India v. Popular Construction Co. is that given the language used in proviso to subsection (3) of Section 34 of the Arbitration Act, the applicability of Section 5 of the Limitation Act to the petition under Section 34 of the Arbitration Act has been excluded.

10. Now, we proceed to consider whether the appellant will be entitled to the benefit of Section 4 of the Limitation Act. Section 4 of the Limitation Act reads thus:

"4. Expiry of prescribed period when court is closed.—
Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the

suit, appeal or application may be instituted, preferred or made on the day when the court reopens.

Explanation.—A court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day.”

11. The meaning of “the prescribed period” is no longer *res integra*. In the case of *Assam Urban Water Supply & Sewerage Board v. Subash Projects & Mktg. Ltd.*, in paragraphs nos. 13 and 14, the law has been laid down on the subject. The said paragraphs read thus:

“13. The crucial words in Section 4 of the 1963 Act are “prescribed period”. What is the meaning of these words?

14. Section 2(j) of the 1963 Act defines:

“2. (j) ‘period of limitation’ [which] means the period of limitation prescribed for any suit, appeal or application by the Schedule, and ‘prescribed period’ means the period of limitation computed in accordance with the provisions of this Act;

Section 2(j) of the 1963 Act when read in the context of Section 34(3) of the 1996 Act, it becomes amply clear that the prescribed period for making an application for setting aside an arbitral award is three months. The period of 30 days mentioned in the proviso that follows subsection (3) of Section 34 of the 1996 Act is not the “period of limitation” and, therefore, not the “prescribed period” for the purposes of making the application for setting aside the arbitral award. The period of 30 days beyond three months which the court may extend on sufficient cause being shown under the proviso appended to subsection (3) of Section 34 of the 1996 Act being not the “period of limitation” or, in other words, the “prescribed period”, in our opinion, Section 4 of the 1963 Act is not, at all, attracted to the facts of the present case.”

Even in this case, this Court was dealing with the period of limitation for preferring a petition under Section 34 of the Arbitration Act. We may note that the decision in the case of State of Himachal Pradesh and Another v. Himachal Techno Engineers and Another which is relied upon by the appellant, follows the aforesaid decision.”

14. In case titled **Government of Maharashtra (Water Resources Department) Represented by Executive Engineer. Vs. Borse Brothers Engineers and Contractors Private Limited** (2021)6 SCC 460, Hon'ble Apex Court held that the expression 'sufficient cause' is not elastic enough to cover long delays beyond the period provided in the appeal provision itself. The expression 'sufficient cause' is not itself a loose panacea for the ill of pressing negligent and stale claims, rather 'sufficient cause' would mean that the party should not have acted in a negligent manner or there was a want of bonafide on its part in view of facts and circumstances of the case or it cannot be alleged that the party has not acted diligently' or remained inactive. Hon'ble Apex Court further held that the expression 'sufficient cause' should be given a liberal interpretation to ensure that substantial justice is done but only so long as negligence, inaction or lack of bona-fides are not imputed to the party concerned. Hon'ble Apex Court held that though law of limitation may harshly affect a particular party but it has to be applied with its entire rigour when the statute so prescribed. Whether or not a sufficient cause has

been furnished, can be decided in the facts of a particular case and in that regard no straitjacket formula can be prescribed. The relevant portion of the judgment reads as under:

“11. The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (**Vide Madanlal v. Shyamlal [(2002) 1 SCC 535 : AIR 2002 SC 100]** and **Ram Nath Sao v. Gobardhan Sao [(2002) 3 SCC 195 : AIR 2002 SC 1201]** .)

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266:

“605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of

limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.”

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches.”

15. Hon'ble Apex Court in case titled as **Shivamma (Dead) by LRs vs. Karnataka Housing Board & others**, Civil Appeal 11794 of 2025, decided on 12.09.2025, held that a different yardstick for condonation of delay cannot be adopted merely because the Government is involved. Since public interest is best served by ensuring efficiency and diligence in governmental functioning, a liberal inclination towards the State or any of its instrumentalities, in matters of condonation of delay, cannot be adopted, merely on the presumption that, if the delay is not condoned, public interest runs the risk of suffering, by a meritorious matter being thrown out. At this stage, it would be profitable to reproduce relevant paras of aforesaid judgment herein below:-

“228. Limitation laws are themselves grounded in public policy, as already discussed in the preceding paragraphs of this judgment, it is based on the maxim '*interest reipublicae ut sit finis litium*' i.e., “it is for the general welfare that a period be put to litigation”. Therefore, public interest is better served by timely governmental

action than by condoning repeated lapses. State cannot simultaneously seek to represent the interest of the public and yet consistently fail to protect that very interest by allowing limitation periods to lapse.

229. Public interest is best served by ensuring efficiency and diligence in governmental functioning, rather than by condoning its lapses as a matter of course. Thus, a liberal inclination towards the State or any of its instrumentalities, in matters of condonation of delay, cannot be adopted, merely on the presumption that, if the delay is not condoned, public interest runs the risk of suffering, by a meritorious matter being thrown out. Public interest lies not in condoning governmental indifference, but in compelling efficiency, responsibility, and timely action.

230. To permit condonation of delay to become a matter of course for the Government would have the deleterious effect of institutionalising inefficiency. It would, in substance, incentivise indolence and foster a culture where accountability for delay is eroded. If the State is assured that its lapses will invariably be excused under the rubric of "public interest," there would remain little incentive for its officers to act with vigilance or for its instrumentalities to streamline procedures for timely action. The consequence would not be the advancement of public interest but rather its betrayal.

231. Public interest, therefore, does not lie in condoning governmental negligence, but in compelling efficiency, responsibility, and timely decision-making. This Court has time and again emphasised that liberal condonation of delay on behalf of the State, merely on the ground that refusal might cause the dismissal of a potentially meritorious matter, is a misplaced proposition. Public interest is not synonymous with the cause of the Government; it is, instead, synonymous with the enforcement of rule of law, certainty in legal rights, and an administrative machinery that functions with diligence and accountability.

232. It must, therefore, be underscored that the guiding principle is not the protection of governmental indifference but the promotion of responsible governance. The State is under a higher duty to act in time, for in every matter it litigates, it does so not in its private capacity, but as the trustee of the people's interest. Hence, repeated indulgence in condoning delays on grounds of bureaucratic inefficiency would amount to eroding the very object of limitation statutes, which are enacted in every civilised jurisdiction for the sake of finality, certainty, and public order.

233. Any other view, would invariably defeat the sound public policy embodied in the Limitation Act and fail in enthusing efficiency in administration, and bring a balance between accountability and autonomy of action, It would result in giving immunity or carte blanche power to act as it pleases with the public at whim or vagary and inevitably spell doom all over the collective responsibility that the State and its instrumentalities are entrusted with. Thus, we are of the considered opinion, that delay cannot be condoned, merely because not doing so would result in non-suiting the State and thereby run the ostensible risk of public interest suffering. Such by no stretch can be the sole consideration for the purpose of Section 5 of the Limitation Act, as to do so would be to ignore the provision of Section 3 and the overarching public policy of giving quietus to lis that forms the bedrock of the Limitation Act".

16. In case titled **Pathpati Subha Reddy (died) by LRs and others vs. Special Deputy Collector (LA)**, SLP(C) No. 31248 of **2018**, decided on 08.04.2024, Hon'ble Apex Court, while dealing with the case arising under Section 54 of the Land Acquisition Act, held that even after establishment of sufficient cause for various reasons, condonation of delay can be refused depending upon the bonafide of

a party. When mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, such delay ought not to be condoned on sympathetic grounds. The conclusion drawn by the Hon'ble Apex Court after considering several precedents in timeline, is as under: -

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

- (i) 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;
- (ii) 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;
- (iii) 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;
- (iv) 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;
- (v) **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;**
- (vi) 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;

- (vii) **Merits of the case are not required to be considered in condoning the delay; and**
- (viii) **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."**

17. Now being guided by aforesaid law laid down by the Hon'ble Apex Court, this Court shall make an endeavour to find out whether sufficient cause, if any, has been shown by the applicant/petitioner for not filing the objections under Section 34 of the Act within stipulated period of 120 days. Admittedly, in the case at hand, objections have been preferred beyond the period of three months under Section 34(3) of the Act, therefore, in terms of the proviso attached thereto, it has to be considered as to whether the applicant/objector was prevented by sufficient cause in not preferring the objections within the prescribed period of three months. The applicant herein is not just required to show sufficient cause for the period of twenty two days beyond the prescribed period of three months, rather it is mandated by the proviso to Section 34(3) of the Act to explain as to why the objections could not be preferred within the prescribed period of three months.

18. Admittedly, in the case at hand, learned Arbitrator passed the impugned award on 15.03.2024 and signed copy of such award

was received in the office of the applicant/objector on 21.03.2024. In terms of provision contained under Section 34(3) of the Act, applicant/objector ought to have filed appeal/petition before 21.06.2024, however same came to be filed on 12.07.2024 i.e. beyond prescribed period of three months, but within extendable time of 30 days

19. In nutshell, the case of the applicant/objector, is that Election Commission of India had announced the scheduled of the General Elections of the Lok Sabha on 16.03.2024 and thereafter, for the smooth conduct of the said elections, services of Shri Divesh Bhardwaj, Junior Engineer and Shri Gokul Gour, Computer Operator, both of whom were directly dealing with and entrusted with the present case, were requisitioned by the District Administration, Shimla vide order dated 11.12.2023 and 10.04.2024 (Annexure A-1 Colly). In compliance to aforesaid order, afore persons remained on election duty w.e.f. 14.12.2023 and 10.04.2024 till the conclusion of the election process on 05.06.2024. Afore persons were formally relieved by the District Administration, Shimla vide office orders dated 05.06.2024 and 10.06.2024 (Annexure A-2 colly). An attempt has been made by the applicant/objector to set up a case that on account of casual absence of aforesaid officials of the department, matter could not be processed for filing the objections.

20. As per own case of the applicant/objector, services of both the officials, as named hereinabove, were requisitioned by the Election Commission of India vide order dated 11.12.2023, meaning thereby, afore officials were on election duty prior to passing of award dated 15.03.2024. Though, this Court is not persuaded to agree with claim of the applicant/petitioner that no appeal could have been filed in the absence of persons named hereinabove, but even if it is presumed that afore persons were only competent to process the case further, it is not understood that once factum with regard to period of limitation was well within the knowledge of the applicant/objector, why duty was not assigned to some other person, especially when after 11.12.2023 both the officials named hereinabove were not available for doing the office work of the applicant/objector/Department. Decision with regard to filing of objections, approval whereof ultimately came from the Chairman of the applicant/objector certainly cannot be taken by menial officials like Junior Engineer and Computer Operator. Computer Operator otherwise in no circumstance can be said to be a person associated with the work of filing appeal etc., rather he/she at best can be said to be assisting the person responsible for filing the appeal or other legal proceedings.

21. This Court also cannot lose sight of the fact that in Head Office of the Board Limited, there must be number of Junior Engineers and Computer Operators, who could be deployed for processing the case for filing the appeal/ objections, if any. Otherwise also, Junior Engineer and Computer Operator would have only taken the file to competent authority for obtaining approval for filing the appeal or for obtaining legal advice.

22. As per own case of the applicant/objector, matter was processed by concerned dealing hand on 8.04.2024, who placed the matter before the Senior Executive Engineer (IT), who after having examined the case forwarded the same to the Chief Engineer (P&M), Vidyut Bhawan, Shimla. Chief Engineer (P&M) further transferred the file to legal cell of the Board on 10.04.2024. At this stage, it is apt to take note of the fact that application alongwith accompanying objections has been filed under signatures of Chief Engineer (P&M), who otherwise being signatory to agreement executed interse parties to the lis was competent to file proceedings. If it is so, there was otherwise no requirement, if any, for processing the file through other channels, rather taking note of gravity of the matter, file could be straightway placed before the Chief Engineer (P&M) for doing the needful. File was received in legal cell on 22.04.2024, which kept the file with it for more than 17 days and

thereafter forwarded the same to the competent authority of the Board, which further marked the file to Consultant (Law) on 17.05.2024. There is no explanation that why file remained pending with the afore authorities w.e.f. 22. 04.2024 to 17.05.2024, especially when afore authorities were to simply take decision with regard to obtaining legal opinion, if any, from Consultant (Law) or its legal advisor.

23. Though, case file was marked to Consultant (Law) on 17.05.2024 for further legal scrutiny and examinations, but ultimately, file reached learned Senior Counsel, who had represented the applicant/objector before the learned Arbitrator in the second week of June, 2024. Though, attempt has been made to carve out a case that learned Senior Counsel representing the applicant/objector was contacted through telephone, but since he was unavailable and had advised to visit his office in second week of June, 2024, file was delivered in his office on 24.06.2024.

24. Learned Senior counsel representing the applicant/objector before the learned Arbitrator on 30.06.2024 advised that it was a fit case for assailing the impugned award by filing objections under Section 34 of the Act, but yet file was not promptly taken to Managing Director of applicant/objector organization, rather same was taken to him on 05.07.2024 for his approval. Since

Managing Director of the applicant/objector was on leave w.e.f. 27.06.2024 to 11.07.2024, ultimate approval was given by the Chairman on 12.07.2024. Since factum with regard to leave of Managing Director w.e.f. 27.06.2024 to 11.07.2024 was well within the knowledge of the office of the applicant/objector, where was the occasion, if any, for them to place the file before the Managing Director, rather same should have been placed before the Chairman directly who taking note of the gravity of the matter immediately accorded approval for assailing the impugned award on the same day.

25. If the sequence of events as have been given in the application, rejoinder and supplementary affidavit are seen in its entirety, this Court has no hesitation to conclude that no plausible explanation has been rendered on record qua delay in filing the accompanying objections under Section 34 of the Act.

26. Leaving everything aside, application at hand alongwith objections has been filed by Chief Engineer, who otherwise also could have filed the application alongwith objections on account of his having signed the agreement at the behest of the applicant/objector with the non-applicant/respondent and as such, there was otherwise no occasion, if any, for the applicant/objector to wait for the persons,

who were on election duty and for subsequent approvals by Managing Director.

27. Examining facts of the present case in light of provisions of Section 34 of the Act and the law laid down on the subject, this Court has no hesitation to conclude that applicant/objector has not been able to furnish any cause much less sufficient cause for condoning the delay in filing the objections against the award beyond the prescribed period of three months. Explanation otherwise attempted to be placed on record cannot be said to be 'sufficient explanation', enabling this Court to condone the delay in filing objections.

28. Consequently, in view of the detailed discussion made hereinabove as well as law taken into consideration, this Court finds no merit in the preset application and accordingly same is dismissed. Accordingly, the appeal/ objections is/are also dismissed.

Pending applications, if any, also stand disposed of.

**(Sandeep Sharma),
Judge**

October 10, 2025
(shankar)