Serial No. 20
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC (WA) No. 29 of 2023

Date of order: 05.03.2024

Listina Basaiawmoit

Vs

1. The State of Meghalaya represented by
the Secretary to the Government of Meghalaya,
Health and Family Welfare Department, Shillong,
East Khasi Hills District, Meghalaya.

2. The Secretary to the Government of Meghalaya,
Personnel ADMV Reforms (B) Department,
East Khasi Hills District, Meghalaya.

3. The Director of Health Services (ML) Health Complex,
Laitumkhrah Shillong, East Khasi Hills District,
Meghalaya.

4. The District Medical & Health Officer,
West Khasi Hills District,
Nongstoin.

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Applicant : Mr R. Gurung, Adv.

For the Respondent : Mrs T. Yangi B., AAG with
Mrs S. Bhattacharjee, GA
Mrs I. Lyngwa, GA

This application has been filed to condone the delay of 109 days in preferring the appeal against the judgment and order dated 28.03.2023.

2. The main reason given in the application is that the petitioner is residing in the remote village of Mairang, West Khasi Hills District, Meghalaya. On account of non-availability of the internet, the petitioner could not communicate with the Counsel for preferring the writ appeal.

3. Learned AAG appearing for the respondents would submit that the reason given by the petitioner is not genuine and that the delay is not properly explained.

4. After hearing both the parties, we are of the view that sufficient cause has been given for condoning the delay. In the light of the judgments of the Apex Court in ***Postmaster General and*** Others V. Living Media India Limited and another ***reported in*** (2012) ***3 SCC 563*** and ***N.Balakrishnan V. M. Krishnamurthy*** reported in ***(1998) 7 SCC 124***, if the delay has been satisfactorily explained, the same can be condoned. These judgments have also been followed by a Division Bench of the Madras High Court in the case of ***M/s.Ruskim*** Sea Foods Limited vs. M/s.Evergreen Sea Foods Pvt. Ltd., ***reported in MANU/TN/0876/2018*** in which one of us (S.Vaidyanathan,J) was a party, wherein it has been held as follows:

> "32. Ordinarily, the 'Condonation of Delay' is a matter of discretion to be exercised by the Concerned Court. Also, it is true that the length and breadth of delay is not relevant, but the acceptance of explanation can only be a relevant criterion for the concerned Court to deal with/condone the aspect of 'Condonation of Delay'. However, in this regard, the Petitioner /concerned litigant is to offer / ascribe sufficient reasons or project sufficient cause or good cause to condone the delay witha view to enable the Concerned Court to take a liberal view with a view to secure the ends of justice."

5. Taking note of the fact that the petitioner is living in a remote village belonging to a tribal community, there is a possibility of non-

communication with the Counsel in preferring the appeal. No prejudice is going to cause to the respondents if the delay is condoned. Therefore, MC (WA) No. 29 of 2023 is allowed and the delay of 103 days is condoned.

6. Registry is directed to diarize the appeal if it is otherwise in order.

7. List the appeal for admission on 08.04.2024.

(W. Diengdoh)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
05.03.2024
"Sylvana PS"