

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2195 of 2015

- Vidyadhar Chandrakar S/o Baburam Chandrakar, Aged About 43 Years R/o Keshalmara, Tehsil Pandariya, Distt. Kabirdham (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through District Collector, District Kabirdham (Chhattisgarh)
2. Additional District Collector, District Kabirdham (Chhattisgarh)
3. Sub Divisional Officer (Revenue), Pandariya, District Kabirdham (Chhattisgarh)

---- Respondent

For Petitioner	Mr. Atul Kumar Kesharwani, Advocate
For Respondent/State	Mr. Adhiraj Surana, Dy.Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

9/12/2015

Heard finally with the consent of learned counsel for the parties.

(2) The petitioner has assailed the legality and validity of the appellate order passed by the Additional Collector, Kabirdham, as appellate authority under the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes(Regulation of Social Status Certification) Act, 2013.

(3) By order dated 04.06.2014, the SDO (Revenue), Pandariya rejected the petitioner's application for grant of caste status certificate,

against which, the petitioner preferred an appeal before the Additional Collector, which was barred by 11 months. The petitioner has also preferred an application under Section 5 of the Limitation Act (in short "the Act") for condonation of delay. While rejecting the said application under Section 5 of the Act, consequently, dismissing the appeal, the Additional Collector has observed that the petitioner had received the certified copy of the order on 20.06.2014 yet the appeal was preferred after 11 months.

(4) It appears, the Additional Collector has not dealt with the merits of the application under Section 5 of the Act. Admittedly, the appeal was barred by 11 months, therefore, it goes without saying that the petitioner/appellant had received the certified copy of the order passed by the SDO atleast 11 months back, therefore, quoting the said fact to dismiss the application would not amount to dealing with the merits of the explanation offered or the cause shown for condonation of delay. Thus, the Additional Collector has not passed a reasoned order dealing with the explanation offered by the petitioner while seeking condonation of delay.

(5) The petitioner's application for grant of caste status certificate has been rejected on the ground that he comes within the definition of "Creamy Layer", therefore, benefit of reserved certificate is not admissible to him. The matter thus pertains to the petitioner's caste status which involves entitlement to certain rights offered to the members of Other Backward Classes, therefore, instead of dismissing the appeal as barred by limitation, the Collector should have decided the appeal on merits.

(6) To cut short the litigations, instead of remitting back the matter

to the Additional Collector for deciding the petitioner's application for condonation of delay, this Court deems it appropriate to direct the Additional Collector to decide the appeal presented before it on merits.

(7) Accordingly, the matter is remitted back to the Additional Collector, Kabirdham to decide the petitioner's appeal on merits.

(8) The writ petition is allowed to the extent indicated above.

Sd/-

Judge

(Prashant Kumar Mishra)

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