

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1313 of 2017**

1. Sandeep Kumar Sahu S/o Shri Kashiram Sahu Aged About 28 Years R/o Village Chhindpali, Post Chattigirola, Tahsil Saraipali, Distt. Mahasamund (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Post Office Mantralaya, P. S. Rakhi, Naya Raipur, District Raipur (Chhattisgarh)
2. The Commissioner, Raipur Zone, District Raipur (Chhattisgarh)
3. The Collector, Mahasamund, Collectorate Building District Mahasamund (Chhattisgarh)
4. The District Education Officer, District Mahasamund (Chhattisgarh)
5. The Chief Municipal Officer, Nagar Panchayat Basna, District Mahasamund (Chhattisgarh)
6. Rupesh Kumar Dewangan S/o Shri Koduram Dewangan, Aged About 27 Years R/o Station Para, Belsonda, P. S. Civil Lines, Tahsil And District Mahasamund (Chhattisgarh)

---- Respondent

For Petitioner
For Respondent/State

Shri Vipin Tiwari, Advocate
Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board**

04/04/2017

1. The Commissioner, Raipur Division has dismissed the petitioner's revision application as a consequence of refusal to condone the delay in filing the revision application.
2. Petitioner was appointed as a Lecturer (Panchayat) (Commerce) by Nagar Panchayat, Basna, on 31-1-2014, which was challenged by the respondent No.6 by preferring an appeal before the Collector, Mahasamund. In the said appeal the petitioner was proceeded *ex parte*. Thereafter, on 30-4-2015 the Collector, Mahasamund, canceled the petitioner's appointment, which came to the petitioner's notice on 26-10-2015 on being informed by the Principal of his school. The petitioner, thereafter, applied for certified copy of the order on 27-10-2015 and moved the revision application on 24-11-2015.
3. It appears, an individual who has been appointed to a public office would ordinarily not refuse to accept the notice or when the adverse order is passed against him would not ignore the same because he is loosing his livelihood, therefore, the explanation offered seeking condonation of delay appears to be bona fide.

4. In **Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others** {AIR 1987 SC 1353}, it has been observed that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. There should not be a presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of *mala fides*. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.
5. Having considered the entirety of the circumstances, this Court is of the considered view that the Commissioner, Raipur Division, should have allowed the petitioner's application under Section 5 of the Limitation Act and decided the revision application on merits rather than dismissing it on the ground of limitation.

6. In view of the above, the impugned order is set aside and the matter is remitted back to the Commissioner, Raipur Division, for deciding the revision application of the petitioner, in accordance with law and on its own merits.
7. As an upshot, the writ petition is allowed to the extent indicated above.

Sd/-

Judge

Prashant Kumar Mishra

Gowri