

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1555 of 2017**

1. Pooja Sonwani W/o Tejram Sonwani, Aged About 27 Years R/o Village Chaura, Block Rajpur, Civil & Revenue District Balrampur-Ramanujganj (Chhattisgarh).

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Woman And Child Development, New Mantralaya, Mahanadi Khand, Raipur (Chhattisgarh).
2. The Collector, District Balrampur-Ramanujganj (Chhattisgarh).
3. The Chief Executive Officer, Janpad Panchayat Rajpur, District Balrampur-Ramanujganj (Chhattisgarh).
4. Project Officer, Integrated Child Development, Rajpur, District Balrampur-Ramanujganj (Chhattisgarh).
5. Smt. Ritu Singh, W/o Kaila Ram, Aged About 28 Years R/o Chaura, District Balrampur-Ramanujganj (Chhattisgarh).
6. Smt. Sumitra W/o Bhimsen, Presently Resided At Badkagaon, Wadrafnagar, District Balrampur-Ramanujganj (Chhattisgarh).

---- Respondent

For Petitioner

Shri Sushil Dubey, Advocate

For Respondent/State

Shri Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

03/04/2017

1. Feeling aggrieved by the appointment of the respondent No.6 as Mini Aanganbadi Worker of Aanganbadi Center of Badnijhariya of Gram Panchayat Choura, on 19-2-2013, the petitioner had earlier preferred WPS No.3699 of 2014, which was disposed of on 21-3-2016 directing her to prefer an appeal before the Collector, Balrampur-Ramanjganj in terms of clause 11 of the guidelines dated 2-4-2008. The appeal preferred by the petitioner has been dismissed on the ground of delay.
2. Shri Sushil Dubey, learned counsel appearing for the petitioner, would submit that immediately after the appointment order dated 19-2-2013 the petitioner had made a complaint to the concerned Collector and, thereafter, preferred the writ petition because no action was taken on her complaint. Shri Dubey would further submit that the Collector should not have dismissed the appeal, on technical grounds, without considering the merits.
3. Shri Satish Gupta, learned Govt. Advocate appearing for the State, *per contra*, would submit that the petitioner failed to explain each day's delay, therefore, the Collector has rightly dismissed the appeal on the ground of limitation.

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. In **Perumon Bhagvathy Devaswom, Perinadu Village v. Bhargavi Amma (dead) by LRs and Others** {(2008) 8 SCC 321} the Supreme Court has observed that the word 'sufficient cause' should be considered to defend the cause of justice and the Court or Authority should not proceed to decide the application with a hyper-technical approach.

6. Having considered the rival submissions of the parties and the order passed by the learned Collector, it would appear the Collector should have condoned the delay of about 9 months in preferring the appeal because the petitioner is a poor villager though has passed her 10th class examination, but resides in an interior place.
7. In view of the above, the impugned order passed by the Collector is set aside at the admission stage itself. The matter is remitted back to the Collector for deciding the petitioner's appeal on merits upon hearing both the parties.
8. The learned Collector shall make all possible endeavour to decide the appeal at the earliest preferably within a period of four months from the date of first appearance of the parties.

Sd/-

Judge

Prashant Kumar Mishra

Gowri