

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment Reserved on: 21/11/2017****Judgment Delivered on : 30/01/2018****Writ Appeal No. 331 of 2017***{Arising out of order dated 18.09.2013 in Writ Petition (Civil)
No. 1282 of 2013 by the learned Single Judge}*

Nand Kumar Sai S/o Late Shri Likhan Sai, Aged About 71 Years Chairperson National Commission For Scheduled Tribes, Agriculturist And Ex - Member Of Parliament Rajya Sabha, R/o Of Bungalow No. 1, Officers Colony, Devendra Nagar, Jail Road, Raipur Chhattisgarh, On Behalf Of Himself And All Other Tribal People Of Chhattisgarh.

---- Appellant**Versus**

1. Ajit Pramod Kumar Jogi S/o Late K.P. Jogi, Politician And Ex - Chief Minister Chhattisgarh, Aged About 71 Years R/o. Anugrah Sagon Bungalow, Civil Lines, Raipur Chhattisgarh.,
2. Caste Certificate High Level / Powered Scrutiny Committee (Wrongly described in petition, correct is: High Power Certification Scrutiny Committee) through its Member Secretary, Pandit Deen Dayal Upadhyay Marg, Sector-4, Raipur, Chhattisgarh.
3. The State of Chhattisgarh, Through the Secretary, Tribal Welfare Department, Sachivalaya, New Raipur.

4. Vigilance Cell constituted by the Caste Certificate High Level / Powered Scrutiny Committee (wrongly described in Petition, correct is: High Power Certification Scrutiny Committee), through Senior Deputy Superintendent of Police / Incharge Pandit Deen Dayal Upadhyay Marg, Sector – 4, Raipur Chhattisgarh.

Formal Respondents:

5. R.P.Ram, Inspector, Vigilance Cell constituted by the Caste Certificate High Level / Powered Scrutiny Committee (wrongly described in petition, Correct is: High Power Certification Scrutiny Committee), through Senior Deputy Superintendent of Police/Incharge Pandit Deen Dayal Upadhyay Marg, Sector-4, Raipur, Chhattisgarh.
6. N.K.Suryavanshi, Inspector, Vigilance Cell constituted by the Caste Certificate High Level / Powered Scrutiny Committee (wrongly described in petition, Correct is: High Power Certification Scrutiny Committee), through Senior Deputy Superintendent of Police/Incharge Pandit Deen Dayal Upadhyay Marg, Sector-4, Raipur, Chhattisgarh.
7. T.R.Mahilane, Inspector, Vigilance Cell constituted by the Caste Certificate High Level / Powered Scrutiny Committee (wrongly described in petition, Correct is: High Power Certification Scrutiny Committee), through Senior Deputy

Superintendent of Police/Incharge Pandit Deen Dayal
Upadhyay Marg, Sector-4, Raipur, Chhattisgarh.

8. I.C.Shandilya, Dy. Superintendent of Police/Incharge, Pandit
Deen Dayal Upadhyay Marg, Sector-4, Raipur, Chhattisgarh.

---- Respondents

For Appellant	: Shri U.N.Awasthy, Senior Advocate with Ms.Raksha Awasthy, Advocate.
For Respondents No. 1	: Shri Brian Da Silva, Senior Advocate with Shri Rahul Tyagi, Shri Shailendra Shukla, Shri Abhinav Dang, Shri Ishan Soni, Ms. Priya Mishra and Ms. Samhisti Saloman, Advocates.
For Responent/State	: Shri J.K.Gilda, Advocate General with Shri D.R.Minj, Deputy Government Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

C.A.V. Judgment

Per Thottathil B. Radhakrishnan, Chief Justice

1. The application (IA No. 1 of 2017) is filed seeking condonation of delay in instituting the instant writ appeal. The Registry has recorded that the appeal is time barred and the period of delay is 1390 days. This fact situation is not controverted by the Appellant/Applicant in the application seeking condonation of delay.
2. Heard learned counsel for the Appellant, learned Advocate General and learned counsel for the Respondent No. 1.
3. This writ appeal is presented against the order dated 18.09.2013 in Writ Petition (C) No. 1282 of 2013. The plea of the

Appellant is that he was not aware of the said order dated 18.09.2013 on Writ Petition (C) No. 1282 of 2013 until receipt of the copy of Writ Petition (C) No. 2104 of 2017, filed by the first Respondent. According to the Appellant (Applicant in the application seeking condonation of delay), he learnt about the order dated 18.09.2013 in Writ Petition (C) No. 1282 of 2013 only while notified of Writ Petition (C) No. 2104 of 2017 in view of the caveat lodged by him in that regard.

4. The first Respondent/Writ Petitioner has filed objections to the application seeking condonation of delay impeaching the Appellant's stand that he came to know about the impugned order dated 18.09.2013 in Writ Petition (C) No. 1282 of 2013 only upon receipt of copy of Writ Petition (C) No. 2104 of 2017. The first Respondent has placed on record a copy of Writ Petition (C) No. 1805 of 2016 as Annexure R/1. In that writ petition filed by the Appellant on 13.07.2016, the copy of the order dated 18.09.2013 in Writ Petition (C) No. 1282 of 2013 is produced as Annexure P/4, which was applied for and the copy issued by this Court on 18.11.2014.

5. The aforesaid pleading and materials by the first Respondent in opposition to the application seeking condonation of delay clearly establishes that the plea in the application for condonation of delay that the Applicant came to know about the order in Writ Petition (C) No. 1282 of 2013 only in the third week of July, 2017 cannot be accepted as true or justifiable reason, which could be treated as sufficient cause for condoning the enormous delay of more than 3 ½

years in instituting the writ appeal. On the facts and circumstances of the case, this could also be a case where the Appellant had never intended to appeal against the order in Writ Petition (C) No.1282 of 2013 within a reasonable time of issuance of that order. No ground for condonation of delay under Section 5 of the Limitation Act is made out. This application therefore fails.

6. In the result, the application (IA No. 1 of 2017) is dismissed.

7. In view of the dismissal of the application (IA No. 1 of 2017) seeking condonation of delay in instituting the writ appeal, the appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE