

HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 6 of 2018***(Arising out of order dated 03.08.2017 passed by the Division Bench in Writ**Appeal No.271 of 2017*

- Gayatri Sahu W/o Shri Dharmendra Kumar Sahu Aged About 34 Years Occupation Service, Shikshakarmi Class-Iii, At Government Primary School, Semradih, Present Address Regadih, Tahsil Palari, District Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Panchayat And Social Welfare, D.K.S.Bhawan, Raipur, District Raipur, Chhattisgarh
2. Additional Collector Baloudabazar, District Raipur, Chhattisgarh
3. Chief Executive Officer Janpad Panchayat Palari, District Raipur, Chhattisgarh
4. M.L.Mandavi Chief Executive Officer, District Panchayat Raipur, District Raipur, Chhattisgarh
5. President Janpad Panchayat Palari, District Raipur, Chhattisgarh
6. Vice President Janpad Panchayat Palari, District Raipur, Chhattisgarh
7. Senjit Dahariya Caste Satnami (A Person Belonging To Scheduled Caste Contesting Candidate For Shiksha Karmi Grade-Iii) R/o Village Kusmi In Janpad Panchayat Palari, District Raipur, Chhattisgarh
8. Dinesh Kumar Chandrakar S/o Shankarilal (Contesting Candidate Of Shiksha Karmi Grade-Iii) R/o Village Sisdeori Janpad Panchayat Palari, District Raipur, Chhattisgarh
9. Yen Kumar Yadav S/o Raja Ram (Candidate Of Shiksha Karmi Grade-Iii) R/o Village Sundrawan Janpad Panchayat Palari, District Raipur, Chhattisgarh
10. Chunuram Verma S/o Khubiram (Contesting Candidate Shiksha Karmi Grade-Iii) R/o Village Ganiyari In The Police Station Of Kharora, District Raipur, Chhattisgarh
11. Vinod Kumar Wadle S/o Lakhanlal (Contesting Candidate Of Dongargarh Near Chowki District Rajnandgaon, Chhattisgarh
12. Urmila Sahu D/o Santosh Kumar Verma Aged About 20 Years (Contesting Candidate Shiksha Karmi) R/o Village Jara Tahsil Palari, District Raipur, Chhattisgarh
13. Khemlata D/o Santosh Kumar Verma Aged About 20 Years (Contesting Candidate Shiksha Karmi) R/o Village Jara, Tahsil Palari, District Raipur, Chhattisgarh
14. Shrila Verma D/o Hulasram R/o Village Tarpongi Tahsil Dharsiwa District Raipur, Chhattisgarh
15. Dipika Naik D/o Ram Kumar R/o Village Tarpongi Tahsil Dharsiwa District Raipur, Chhattisgarh

16. Jitendra Banjare S/o T.Banjare R/o Village Barchha Tahsil Arang District Raipur, Chhattisgarh

---- Respondents

For Petitioner : Shri Santham Awasthi, Advocate
 For Respondent-State : Shri Sudeep Verma, Deputy Advocate General

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

Order on Board

Per P.R. Ramachandra Menon, Chief Justice.

17/10/2019

1. On 31.01.2018, consolidated notice was issued before admission on the “delay application” and the review petition. But the fact remains that no such application had actually been filed for condoning the delay in filing the review petition. When this discrepancy was pointed out, the petitioner has filed an I.A. No. 01 in the year 2019 to condone the delay in filing the review petition. In fact, the lapse on the part of the Petitioner in filing the review petition without filing any petition to condone the delay is serious. However, the fact remains that the Registry also omitted to note the defect, in not filing the petition to condone the delay. In the said circumstance, we find it appropriate to extend some leniency to the review petitioner and accordingly, we condone the delay for the reasons stated in the application.
2. Coming to the merit of the case, the sequence of events reveals that the Review Petitioner had approached this Court by filing the writ petition with the following prayers :

“10.1 That the Hon'ble Court may kindly be pleased to issue a writ in the nature of CERTIORARI by quashing the order impugned dated 16.11.2019, i.e. (Annexure P-1) passed by Respondent No.2.

10.2. That this Hon'ble Court may kindly be pleased to reinstate the petitioner in service with full back wages.

10.3. Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner.”

3. The matter was considered and Annexure-A/1 verdict was passed by the learned Single Judge on 08.08.2011 with reference to the rulings rendered in other similar circumstances, which however was sought to be challenged by filing an appeal bearing Writ Appeal No. 60 of 2012 before this Court. When the matter came up for consideration, permission was sought for to withdraw the said appeal, with liberty to file a review petition before the learned Single Judge as evident from Annexure-A/2. Thereafter, the Petitioner filed a review petition before the learned Single Judge, wherein interference was declined and the review petition was dismissed as per Annexure-A/3 dated 07.09.2012. It took nearly 'five years' to the Petitioner to wake from the slumber and file Writ Appeal No.271 of 2017 before this Court with a petition to condone the delay of 2164 days in filing the appeal. The matter was considered by this Court and as per judgment dated 03.08.2017 whereby interference was declined on merits as well as in the application to condone the delay. The operative portion as contained in paragraph 7 is extracted below :

“7. For the aforesaid reasons, following the judgment dated 20.09.2011 in Writ Appeal No. 413 of 2011 and connections and taking note of the withdrawal of earlier writ appeal by the writ petitioner who is the Appellant herein, we do not find any merit in this writ appeal. As a consequence, we also are unable to see any merit in the application seeking condonation of delay of 2164 days in filing the appeal.”

4. The learned counsel for the Review Petitioner submits that the delay has been sought to be explained in I.A. No.1 of 2017 and it was merely due to the fact that the finalization of the review petition was never informed by the learned Lawyer to the party. No affidavit or certificate of the lawyer

engaged by the review petitioner has been produced. The review petition came to be dismissed as per Annexure-A/3 order dated 07.09.2012. When the Petitioner submits that she was not aware of the finalization of the review petition while conceding that she was aware of all other proceedings pursued by herself so far, we find it difficult to accept the said version. There was a duty for the litigant to enquire about the position / fate of the proceedings. Going by the version of the Review Petitioner, after instructing to file review petition before the learned Single Judge, she did not turn up for 'five years'; which conduct can't be appreciated. For the very same reason, the alleged illness also does not come to rescue of the Review Petitioner, apart from the lack of merits. There is already a finding by the Bench on 03.08.2017 that there was no merit in the application seeking to condone the delay of 2164 days. What is the 'error apparent on the face of the record' with regard to the said finding has not been brought out by the Review Petitioner in the present review petition. The power of review, as made clear by the Apex Court, is limited and it is not a substitute for appeal, as per the law declared in ***Smt. Meera Bhanja v. Smt. Nirmala Kumari Choudhury, AIR 1995 SC 455***.

5. There is no merit in the application. It is dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
 Chief Justice

Sd/-
(Sharad Kumar Gupta)
 Judge