

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 4756 of 2021

Bhagat Ram Patel, S/o. Bhagwano Patel, aged about 48 years, Caste – Aghariya, Occupation Agriculture, R/o. Village Budeli, Tahsil Baramkela, District Raigarh Chhattisgarh.

---- Petitioner

Versus

1. The State of Chhattisgarh, Through : the Secretary, Department of Revenue and Disaster Management, Mahanadi Bhavan, Mantralaya Nava Raipur, Atal Nagar, Raipur Chhattisgarh
2. The Collector District Raigarh Chhattisgarh.
3. Sub Division Officer (Revenue) Sarangarh, District Raigarh Chhattisgarh.
4. The Tahsil Baramkela, District Raigarh Chhattisgarh.
5. Vhupram, S/o. Shankarlal Naik, aged about 55 years, Caste- Aghariya, Occupation Agriculture, R/o Village Budeli, Tahsil Baramkela, District Raigarh Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Roop Naik, Advocate
For State-Respondents	: Mr. R.K. Bhagat, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/11/2021

1. It is submitted by the learned counsel for the petitioner that the petitioner has preferred an appeal against the order of the Tahsildar, before the respondent No.3. on 10.08.2021 along with the application under Section 5 of the Limitation Act praying for condonation of delay. The learned trial Court of respondent No.3 has dismissed the application

under Section 5 of the Limitation Act.

2. It is submitted that the learned S.D.O. has not given consideration to the judgment of Supreme Court in the case of **In Re Cognizance for Extension of Limitation Vs. None, Miscellaneous Application No. 665 of 2021 in SMW (C) No. 3/ 2020, decided on 23.09.2021**, in which there is clear direction that in computing the period of limitation for application, appeal, suit or proceeding etc., the period between 15.03.2020 to 02.10.2021 shall be excluded, therefore, the petitioner was entitled for exemption. Accordingly appropriate order be passed.
3. Learned State counsel opposes the submissions and submits that the petitioner had the opportunity available to file appeal in time, but he has deliberately filed the appeal belatedly, hence, no error has been committed in passing the impugned order.
4. Considered on the submissions.
5. The Hon'ble Supreme Court has observed in para-1 in case **In Re Cognizance for Extension of Limitation (supra)**, which is as follows :-

“1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021.”
6. The direction of the Hon'ble Supreme Court was not brought to the notice of the respondent No.3, when the application under Section 5 of Limitation Act was heard, therefore, the order of the Supreme Court is required to be taken into consideration, before passing any order on any application for condonation of delay. Hence, for this reason, this petition is disposed off at motion stage. The impugned order dismissing the application filed under Section 5 of the Limitation Act is set-aside. The

application for condonation of delay filed before the respondent No.3 is restored along with the appeal. The respondent No.3 is directed to reconsider on the application for condonation of delay in the light of the above direction given by the Supreme Court and dispose of the same accordingly.

7. With these observations, this petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram