

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 6446 of 2012

***G.B. of Athmallick College,
Athmallick***

Petitioner

Mr. S.K. Das, Advocate

-versus-

State of Odisha and others Opposite Parties

Mr. Rajesh Tripathy, ASC for OPs.1, 2 & 4

Mr. K.K.Swain, Advocate for O.P. No.3

CORAM:

JUSTICE M.S.SAHOO

ORDER

21.3.2022

Order No.

8. 1. This matter is taken up by hybrid mode.
2. The petitioner in the writ petition, calls in question the judgment and order dated 5.9.2011 passed by learned State Education Tribunal, Bhubaneswar in Appeal No.54 of 2010 filed by O.P. No.3 herein.
3. It is submitted by learned counsel for petitioner that the judgment and order dated 5.9.2011 passed by learned State Education Tribunal, Bhubaneswar suffers from several legal infirmities, particularly, on two counts; i.e., before admitting the case, learned Tribunal had not condoned the delay and secondly, the O.P. No.3/petitioner before the learned Tribunal had not brought the entire facts on record so as to be considered in its proper perspective.

4. Learned counsel for O.P.No.3 strongly refutes the contentions raised by the learned counsel for the petitioner. It is further submitted by learned counsel for O.P. No.3 that though the matter was admitted by order dated 22.11.2010, it was earlier considered on 26.10.2020 & 12.11.2010. Consequently, by order dated 22.1.2011, the delay was pointed by learned Tribunal and by order dated 7.2.2011, delay was condoned.

5. In response, learned counsel for petitioner submits that the error apparent on the face of record is that the matter was admitted on 22.11.2010 and on 7.2.2011, the learned Tribunal without giving reasons, has condoned the delay.

6. After hearing the rival contentions raised at the Bar, this Court is not inclined to go into the merits whether the learned Tribunal had proceeded by following the process of law or not.

7. In the interest of justice and fair play, as agreed at the Bar, the matter is remanded back to the learned Tribunal for consideration on merits keeping all the questions of law/merit/limitation open, to be considered by the learned Tribunal.

8. It is submitted and agreed at the Bar that the matter is of the year 2010 and it is further submitted by learned counsel for O.P.NO.3 that the

petitioner before the learned Tribunal is retiring in about four years.

9. It is expected that the learned Tribunal shall consider this aspect and take up the matter expeditiously and endeavour shall be made by all the appearing parties for early disposal of the matter.

10. As agreed, the matter is to be listed before the learned Tribunal by 18.4.2022 on which date the learned Tribunal shall fix a date. The parties shall be at liberty to complete their pleadings before the learned Tribunal.

11. The writ petition is allowed to the above extent. The impugned orders passed by the learned Tribunal are set aside.

12. LCR be sent back immediately.

13. Urgent certified copy of the order be granted as per Rules.

14. The order be uploaded in the Court's website.

(M.S.Sahoo)
Judge

dutta