

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.9272 OF 2022

Rama Chandra Sahoo

..... Petitioner

Mr. A. Sangneria, Advocate

-versus-

State of Odisha and others

..... Opp. Parties

Mr. Dillip Kumar Mishra,

Additional Government Advocate

(For Opp. Party Nos.1, 3 & 4)

Mr. B.K. Dash, Advocate

(For Opp. Party No.2)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

20.06.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks for a direction to the Public Information Officer, Dhamnagar-Opposite Party No.4 to provide him information pursuant to the application dated 2nd August, 2021 under Annexure-1.
3. In course of hearing, Mr. Sangneria, learned counsel for the Petitioner submits that due to inaction of Public Information Officer, the Petitioner has filed the first appeal on 7th September, 2021. Although law requires that the first appellate authority should dispose of the appeal within a period of thirty days from the date of receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, no order has yet been passed. He further submits that the Petitioner has a remedy under Section 19(3) of the Right to Information Act, 2005 (for short 'the Act') to invoke the

jurisdiction on the Information Commission by filing a second appeal. He, however, submits that the period of limitation to file a second appeal has expired in the meantime. He, therefore, undertakes to file second appeal within a period of two weeks hence and prays for a direction to the second appellate authority to entertain the second appeal on merit.

4. Mr. B.K. Dash, learned counsel for the Information Commissioner objecting such prayer submits that the Petitioner has a remedy under Section 19(3) of the Act to file a second appeal. Proviso to such provision clearly provides that the Commission if satisfied shall condone the delay in filing the second appeal. In that view of the matter, prayer of learned counsel for the Petitioner is not sustainable.

5. Taking into consideration the rival contentions of the parties, this Court is of the considered opinion that since the Petitioner has remedy to file a second appeal under Section 19(3) of the Act and prays for condonation of delay in filing the said appeal, no further direction in that regard is required to be made. Hence, this writ petition is disposed of with an observation that if any appeal under Section 19(3) of the Act is filed by the Petitioner along with a petition for condonation of delay, the same shall be considered strictly in accordance with law.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks