

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.256 of 2017

State of Orissa & Ors. Appellants

-versus-

Suresh Ch. Barik & Anr. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
08.07.2022**

Order No

04. I.A. No.382 of 2017

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. This is an application filed by the State for condoning the delay in filing the appeal.
3. It is submitted that G.I.A. Case No.314 of 2015 was disposed of by the learned State Education Tribunal vide Judgment dt.29.11.2016 with a direction on the Opp. Parties to take appropriate steps to approve the appointment of the Appellants as against the post of Peon from the date of his eligibility in terms of the grant-in-aid order in vogue and to release the admissible current & arrear dues in favour of the Respondent.
4. It is submitted by Mr. Samal, learned counsel for the State that the said order was received by the D.E.O., Kalahandi on 09.01.2017

and vide letter dtd.16.01.2017 D.E.O., Kalahandi requested the Govt. as well as the Director to take necessary action in the matter. It is also submitted that Govt. after receipt of the said intimation from the D.E.O., Kalahandi requested the Director, Secondary Education as well as D.E.O., Kalahandi vide letter dtd.09.02.2017 to submit detailed report and a report was also submitted by the D.E.O., Kalahandi on 25.02.2017. Mr. Samal submitted that subsequently it was decided to file an appeal against the impugned Judgment on 17.06.2017 and accordingly the present appeal was filed on 20.07.2017. Mr. Samal accordingly submitted that the delay in filing the appeal be condoned.

5. Mr. Rath, learned counsel appearing for the Respondent No. 1 made his submission relying on the stand taken in the objection. It is submitted that the Appellant was appointed as a Peon in the school in question vide order dtd.29.09.1993 and the school was brought over into the grant in aid fold as per the GIA order. All the teaching and non teaching staffs of the said school have already been approved and getting the benefit of grant in aid. But because of the pendency of this appeal from the year 2017 the Respondents is deprived of the benefit.

6. Mr. Rath, learned counsel for the Respondent No. 1 also relied on a decision of this Court reported in Vol. 113(2010) CLT page-106 and Vol.18(2010)CLT page-58. Accordingly, Mr. Rath submitted that the delay in filing the appeal may not be condoned.

7. Heard learned counsel for the Parties. From the pleadings made it is apparent that on receipt of the order, not only the D.E.O., Kalahandi, but also the Govt.-Appellant No. 1 were in favour of complying the order. But subsequently they decided on 17.06.2017

for filing of the appeal against the impugned Judgment and accordingly the present appeal was filed on 20.07.2017.

8. After going through the pleadings made, this Court does not find justifiable reason assigned by the Appellant for condoning the delay in the filing the appeal. Accordingly, this Court is not inclined to condone the delay and the I.A. is accordingly rejected. Consequentially, the appeal also fails and dismissed.

(Biraja Prasanna Satapathy)
Judge

Sneha

