

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) NO.19350 OF 2022**

***Ashanti Rout***

....

***Petitioner***

Mr.D.K.Dhar, Adv.

*-versus-*

***State of Odisha & ors.***

....

***Opposite Party(s)***

Mr.S.Mishra, ASC

Mr.B.P.Dhal, Adv.

**CORAM:**

**JUSTICE BISWANATH RATH**

**ORDER**

**4.8.2022**

**Order**  
**No.**

1.

1. Heard learned counsel for the Parties. On consent of the Parties, the matter is taken up for final hearing.

2. There is serious allegation on the condonation of delay of seven days in filing the election dispute alleged to have been on the basis of a fraudulently procured medical certificate at Page-27.

3. This Court also takes into account the submission of Mr.B.P.Dhal, learned counsel appearing for the contesting O.P. likely to be affected that undisputedly O.P.3 was unwell, proceeded to the Hospital involved and on advice of the Doctor though she was released on the same date but was advised to bedrest from 16.3.2022 to 24.3.2022. It is thus contended that there is bona fide application for condonation of delay.

4. Mr.S.Mishra, learned ASC for the State attempts to justify the impugned order.

5. Considering the rival contentions of the Parties, this Court finds, the election dispute was filed on 26.4.2022. On perusal of the medical supporting, this Court finds, O.P.3 admitted herself to the S.D. Hospital, Talcher on 16.3.2022. Though she was released on

the same date by the Hospital Authority but however there is clear advice of the Doctor asking her to take rest up to 24.3.2022 and resume her duty from 25.3.2022. The election dispute being filed within two days of such recovery, this Court finds, undisputedly there is delay in filing and there is suffering to the elected candidate. In the event of entertaining such application for condonation of delay, the aspect of suffering of the elected candidate should have been kept in view while condoning the delay, particularly involving the election dispute.

6. In the circumstance, in interfering with the impugned order on the aspect of condonation of delay but keeping in view the suffering of the elected candidate being the contesting O.P. in the election proceeding, this Court modifies the order of the trial court with award of cost of Rs.3000/- (rupees three thousand) to be paid by the election petitioner to the private O.P.3 therein at least within seven days hence.

7. With the above order, the Writ Petition stands disposed of.

**(Biswanath Rath)**  
**Judge**

M.K.Rout