

IN THE HIGH COURT OF ORISSA AT CUTTACK

I.A. No.427 of 2022

in

W.P.C. (OA) No.1782 of 2017

Jagatdish Kumar Naik & Others ***Petitioners***

Mr. Shasi Bhusan Jena, Advocate

-versus-

State of Odisha & Others

.... ***Opposite Parties***

Mr. M.K. Khuntia, AGA

CORAM:

JUSTICE M. S. RAMAN

ORDER

24.02.2023

Order No.

02. **I.A. No.427 of 2022**

1. The I.A. has been filed for extension of time for revival of the writ petition being WPC(OA) No.1782 of 2017, which was disposed of *vide* order dated 30th August, 2022, for hearing on merit.

2. As it is noticed from the record that the learned Odisha Administrative Tribunal on 31st October, 2017 while issuing notice on admission, passed the following interim order:-

“So far as prayer for interim order is concerned, no coercive action be taken against the applicants till filing of counter and pendency of the OA shall not be a bar to consider the grievance of the applicants.”

3. The matter was listed before the learned Tribunal for quite number of times but no counter is forthcoming. However, after abolition of the Odisha Administrative Tribunal, the matter has come before this Court and was listed on 30th August, 2022.

Since none appeared for the Petitioner at the time of call on the said date, on the basis of the submission of the learned Additional Government Advocate, the matter stood disposed of. The said order is quoted hereunder:-

“ xxx xxx xxx xxx

3. *Challenging the Advertisement bearing No.IIE-44/017/1588/OSSC dated 18.04.2017 inviting application for appointment for the post of Soil Conservation Extension Worker, the petitioners, who were working under Watershed Management team under the Project Director Watershed and Deputy Director and Soil Conservation, Nabarangpur, have approached this Court stating that the advertisement is illegal in the sense that they have been discharging the same nature of work that is advertised in respect of Soil Conservation Extension Workers.*

4. *As an interim measure, while issuing notice in the matter, the learned Odisha Administrative Tribunal on 31.10.2017 directed no coercive action to be taken against the petitioner till filing of counter and further observed that pendency of the original application/Writ Petition shall not be a bar to consider the grievance of the applicants/petitioners.*

5. *None appears for the petitioners at the time of call.*

6. *Mr. Samantaray, learned Additional Government Advocate submitted that the advertisement for engagement in was of the year 2017 being challenged, by efflux of time the matter has become infructuous as the advertisement itself had not been stayed.*

7. *In view of such submission, due to non-appearance of neither the petitioner nor their counsel, it is construed that they are no more interested in pursuing the matter.*

8. *Accordingly, the writ petition is disposed of as infructuous reserving liberty to the counsel for the petitioner to revive the same within a period of 90 days, if cause of action still subsists.*

9. In view of the disposal of the writ petition the interim order passed on 31.10.2017 by the leaned Odisha Administrative Tribunal in O.A. No.1782 of 2017 stands vacated.”

4. Mr. Shasi Bhusan Jena, learned counsel for the Petitioners superseding the earlier counsel who appeared in the matter, filed the instant I.A. praying therein for revival of the writ petition and fairly conceded that though this Court granted liberty to the petitioner to revive the writ petition within a period of 90 days in the order dated 30.08.2022, the I.A. could only be filed on 19th December, 2022 before this Court which is beyond 90 days from the date of order.

5. Mr. M.K. Khuntia, learned Additional Government Advocate submitted that this Court ceases to have power to condone the said period. The I.A. being filed beyond the period stipulated in the order dated 30th August, 2022, there is no scope for revival of the writ petition.

6. In the I.A. prayer is made “to condone the delay/extend the period” of revival as stipulated in the Order dated 30.08.2022. Whereas the period of revival as allowed in said order lapsed on 29.11.2022, the I.A. has been filed on 19.12.2022. Thus, considering the submission of counsel for the respective parties, this Court is not persuaded to allow the prayer made in the I.A., which is filed beyond the period stipulated in the order dated 30th August, 2022.

7. Accordingly, the I.A. is dismissed.

(M.S. Raman)
Judge