

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMAPL No. 905 of 2019

Madhusmita Dutta

....

Petitioner

Mr. A. Rath, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. B.P. Tripathy, AGA

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

16.11.2022

Order No.

I.A. No.363 of 2019

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application for condonation of delay in filing the CMAPL.
3. Heard the learned counsel for the parties.
4. Considering the facts and submissions made, especially the circumstances in which the delay said to have been occurred in filing the CMAPL, it appears to this Court that delay in filing the CMAPL could not have been made deliberately and the cause shown by the Petitioner being sufficient for condonation of delay and, as such, delay in filing the CMAPL stands condoned subject to deposit of a sum of Rs.500/-

(Rupees five hundred) in the Advocates' Welfare Fund of the Orissa High Court Bar Association.

5. The I.A. is, accordingly, disposed of.

CMAPL No.905 of 2019

6. This is an application for restoration of the W.P.(C) No.13296 of 2006, which was dismissed for non-prosecution vide order dated 26.06.2019.

7. It is submitted by the learned counsel for the Petitioner that as he had accidentally missed the cause list and the advocate clerk was absent on that particular day, he could not appear before the Court on the date fixed, as the said fact could not bring to his notice. It is also submitted that such non-appearance is neither intentional nor deliberate one. Therefore, keeping in view the larger interest of justice, this Court should restore the writ petition to file.

8. Taking into consideration the settled position of law that for the laches of the lawyer, the parties should not suffer, this Court is inclined to allow this CMAPL and restore the writ petition.

9. Accordingly, the CMAPL is allowed.

10. The W.P.(C) No.13296 of 2006 is restored to file and the same be placed before the appropriate Bench.

(A.K. Mohapatra)
Judge