

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 38848 of 2021

Hemanta Kumar Kar ***Petitioner***
Mr. Biswa Prakash Dhal, Advocate
-versus-
The Sub-Collector, Puri and ***Opp. Parties***
another

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:
JUSTICE K.R.MOHAPATRA

ORDER

06.01.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 26th August, 2021 (Annexure-8) passed by the Sub-Collector, Puri in Mutation Appeal No.63 of 2018.
3. Mr. Dhal, learned counsel for the Petitioner submits that the Petitioner is respondent in Mutation Appeal No.63 of 2018, which has been filed by Opposite Party No.2 after the statutory period. The Opposite Party No.2 also filed an application for consideration of condonation of delay in filing the appeal. On receipt of notice in the said matter, the Petitioner appeared and filed his objection. The matter was posted to 23rd February, 2021 for consideration of the petition for condonation of delay. Since the Sub-Collector, Puri was busy otherwise, the matter was posted to 27th April, 2021. But the matter was not taken up on the adjourned date. However, on 26th August, 2021, the petition for condonation of delay was taken up and without affording any opportunity of hearing to the Petitioner, the delay in filing the appeal was condoned. It is his submission that as the Petitioner was not given any opportunity of hearing, he could not object to the prayer for condonation of delay. Hence, he prays for setting aside the impugned order under Annexure-8.

4. Mr. Mishra, learned Additional Standing Counsel for the State submits that certified copy of the order sheets filed by the Petitioner does not make it clear as to whether the Petitioner had knowledge of posting of the case to 26th August, 2021 or not. The allegations made by learned counsel for the Petitioner can be effectively verified by the Sub-Collector, Puri, if a petition is filed to that effect before the appellate authority.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered opinion that the allegations made by learned counsel for the Petitioner needs factual adjudication. Thus, the Petitioner should have filed an application for recall of the impugned order at the first instance before approaching this Court.

6. In view of the above, this writ petition is disposed of with a direction that in the event the Petitioner files an application for recall of the order dated 26th August, 2021 (Annexure-8) passed by the Sub-Collector, Puri in Mutation Appeal No.63 of 2018 within a period of two weeks hence along with certified copy of this order, he shall do well to consider the same in accordance with law giving opportunity of hearing to the parties concerned and pass a reasoned order thereof before proceeding ahead in the appeal.

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

(K.R. Mohapatra)
Judge