

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.40714 OF 2021

Ratikanta Kanungo

....

Petitioner

Mr.S.N.Biswal, Adv.

-versus-

OREA & anr.

....

Opposite Party(s)

Mr.A.P.Bose, Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
25.3.2022**

**Order
No.**

3.

1. Heard learned counsel for the Parties.
2. This Writ Petition appears to be against the order of the Appellate Authority. There was dismissal of the Appeal of the Petitioner for non-prosecution not only on the date of posting but also on four dates at least prior to the date of dismissal.
3. Learned counsel for the Petitioner filing the Writ Petition submits that that there was Covid constraint in his appearance and dismissal of Appeal for non-appearance of Petitioner, Petitioner becomes remediless and requested for reopening of the statutory Appeal for ends of justice.
4. Considering the submission of the learned counsel for the Petitioner, this Court finds, the Appeal at the instance of the

Petitioner has been dismissed for non-prosecution and that too even before admission of statutory Appeal but however for repeated non-cooperation of the Petitioner for long. Keeping in view the Covid constraint became an impediment in the non-appearance of the Petitioner cannot be even ruled out further Appeal is a statutory Appeal, it ought to be disposed of on merit. This Court accordingly finds, in the event Rules permitting the Petitioner to file an Application requesting the Appellate Authority to recall the dismissal order and disposal of the Appeal on merit within two weeks, as undertaken, the same shall be considered and the Appeal involved shall be heard on merit but however involving the Parties likely to be affected.

5. The Writ Petition stands disposed of accordingly.

(Biswanath Rath)
Judge

M.K.Rout