IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.151 of 2020

State of Odisha & Another	**….**	**Appellants** Mr. P.K. Panda, ASC
	-versus-	
Prasanta Ku. Pradhan & Another	**….**	**Respondents** Mr. J. Biswal, Advocate

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
06.12.2024

Order No
09. **I.A. No.140 of 2020**

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard learned counsel appearing for the Parties.

3. This Application has been filed seeking condonation of delay of 728 days in filing the appeal in question. The present appeal has been filed challenging the order dtd.18.12.2017 passed by the learned State Education Tribunal, Odisha, Bhubaneswar in G.I.A Case No.120 of 2014. It is contended that because of procedural red tape in the process, the matter got delayed and could not be filed within the period of limitation. However, the delay in filing the appeal is not intentional and rather bona fide one.

4. Learned counsel appearing for the Respondents on the other hand contended that the delay in filing the appeal has not been properly explained by showing sufficient cause and in view of the decision of the Hon'ble Apex Court in the case of ***Postmaster General & Ors. Vs. Living Media Ltd. & Anr. ((2012) 3 SCC 563)*** and the decision of this Court in ***State of Odisha & Ors. Vs. Sales Tax Officer, Cuttack II (W.P.(C) No. 15763 of 2021)***, the delay is not required to be condoned.

4.1. Hon'ble Apex Court in Para 27 and 29 of the Judgment in the case of ***Postmaster General & Ors.*** has held as follows:-

> *"**27.** It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.*
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> ***29.** In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."*

4.2. Similarly this Court in the case of ***State of Odisha & Ors*** in Para -5 has held as follows:-

> *"5. The Supreme Court has recently in a series of matters reiterated that the explanation usually offered by the State and its entities for the delay on account of administrative exigencies should not be accepted unless they are shown to be justified. A sampling of such orders is as under:*
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> *(i) Order dated 13th January 2021 in SLP No.17559 of 2020* ***(State of Gujarat v. Tushar Jagdish Chandra Vyas & Anr.)***
>
> ***(ii)*** *Order dated 22nd January 2021 in SLP No.11989 of 2020* ***(The Commissioner of Public Instruction & Ors. v. Shamshuddin)***
>
> *(iii) Order dated 22nd January 2021 in SLP No.25743 of 2020* ***(State of Uttar Pradesh & Ors v. Sabha Narain & Ors.)***
>
> *(iv) Order dated 4th February 2021 in SLP No.19846 of 2020* ***(Union of India v. Central Tibetan Schools Admin & Ors)***
>
> *(v) Order dated 11th January 2021 in SLP No.22605 of 2020* ***(The State of Odisha & Ors v. Sunanda Mahakuda)****"*

5. Having heard learned counsel appearing for the Parties and placing reliance on the decisions as cited (supra), this Court does not find any sufficient cause pleaded by the appellants for condoning the delay in question. Therefore, this Court is not inclined to condone the delay in filing the appeal and dismiss the I.A accordingly.

(Biraja Prasanna Satapathy)
Judge

10. FAO No.151 of 2020

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Since this Court is not inclined to condone the delay in filing the appeal, the appeal is accordingly dismissed.

(Biraja Prasanna Satapathy)
Judge

Subrat

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Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 07-Dec-2024 17:25:19