

The State Of Odisha vs Sunanda Mahakuda on 11 January, 2021

Bench: Sanjay Kishan Kaul, Hrishikesh Roy

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ITEM NO.16

Court 9 (Video Conferencing)

SECTION

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 22605/2020

(Arising out of impugned final judgment and order dated 12-03-2015 in WPC No. 7021/2004 19-04-2019 in WA No. 147/2017 passed by the High Court Of Orissa At Cuttack)

THE STATE OF ODISHA & ORS.

Petitioner

VERSUS

SUNANDA MAHAKUDA

Respondent

(FOR ADMISSION and I.R. and IA No.127418/2020-CONDONATION OF DELAY IN FILING and IA No.127419/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 11-01-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)

Mr. Suvendu Suvasis Dash, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The present SLPs have been filed after a delay of 1954 days in respect of impugned order dated 12.03.2015 of the learned Single Judge and delay of 545 qua the order in Writ Appeal. We may notice that the Writ Appeal itself was preferred after a delay of 783 days and was found not to have been properly explained. We may add that the present Special Leave Petition is filed after contempt proceedings were initiated on 13.05.2019, on dismissal of the Writ Appeal. Now, it is our chance to scrutinize a little more closely 19:19:36 IST Reason:

the aforesaid conduct of the State Government. The application for condonation of delay explains the reasons for delay in para 2 which reads as under:

“2. There is a delay in the Special Leave Petitions filed against the Judgment and Order dated 12.03.2015 in W.P.(C) No.7021 of 2004 passed by the Hon’ble High Court of Orissa, Cuttack. Thereafter the Petitioners filed Review Petition before the Hon’ble High Court which were dismissed by the Order dated 27.04.2017. Thereafter the Petitioners filed Writ Appeal before the Hon’ble High Court which also dismissed by Order dated 19.04.2019. Therefore, there is a delay in the present Special Leave Petitions filed against the Orders. The delay is neither intentional nor wanton but for the reasons mentioned above. In case delay is not condoned, the petitioner would be put to irreparable loss and hardship. On the other hand no prejudice whatsoever would be caused to the Respondent if delay is condoned.

In the interest of justice the delay in re-filing be condoned.” A reading of the aforesaid shows that there is no reason much less sufficient and cogent reason assigned to explain the delay and the application has also been preferred in a very casual manner. We may notice that there are number of orders of this State Government alone which we have come across where repeatedly matters are being filed beyond the period of limitation prescribed. We have been repeatedly discouraging such endeavours where the Governments seem to think that they can walk in to the Supreme Court any time they feel without any reference to the period of limitation, as if the statutory Law of Limitation does not exist for them.

There is no doubt that these are cases including the present one where the Government machinery has acted in a inefficient manner or it is a deliberate endeavour. In either of the two situations, this court ought not to come to the rescue of the petitioner. No doubt, some leeway is given for Government inefficiency but with the technological advancement now the judicial view prevalent earlier when such facilities were not available has been over taken by the elucidation of the legal principles in the judgment of this Court in the Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. – (2012) 3 SCC 563. We have discussed these aspects in SLP [C] Diary No.9217/2020, State of Madhya Pradesh v. Bheru Lal decided on 15.10.2020 and thus, see no reason to repeat the same again.

In the present case, the State Government has not even taken the trouble of citing any reason or excuse nor any dates given in respect of the period for which condonation is sought. The objective of such an exercise has also been elucidated by us in the aforesaid judgment where we have categorized such cases as “certificate cases”.

The object of such cases appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say nothing could be done because the highest Court has dismissed the appeal. It is mere completion of formality to give a quietus to the litigation and save the skin of the officers who may be at fault by not taking action in prescribed time. If the state government feels that they have suffered losses, then it must fix responsibility on concerned officers for their inaction but that ironically never happens. These matters are preferred on a presumption as if this Court will condone the delay in every case, if the State Government is able to say something on merits. Looking to the period of delay and the casual manner in which the application has been worded, we consider appropriate impose costs of Rs.25,000/- to be deposited with the Supreme Court Advocates On

Record Welfare Fund. The amount be deposited in four weeks. The amount be recovered from the officers responsible for the delay in filing both the Writ Appeal and the Special Leave Petition and a certificate of recovery be also filed in this Court within the same period of time.

The Special Leave Petition(s) is/are dismissed as time barred in terms aforesaid.

A copy of this order be placed before the Chief Secretary for compliance making it clear that any non-compliance within time stipulated would invite the consequential action by this Court for disobedience of the directions.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR