



IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No.277 of 2018

Bhairaba Sahu & Anr.

.....

Appellants

Represented by Adv. -
M/s.dillip Ku.mohapatra

-versus-

State of Orissa & Ors.

.....

Respondents

Represented by Adv. -Mr.
C.M.Singh, A.S.C.

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

Order No.

16.03.2026

I.A. No.116 of 2026

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application filed at the instance of the Appellant for condonation of delay in presentation of the FAO.
 3. Heard learned counsel for the Appellants as well as the learned counsel for the State-Respondent.
 4. On perusal of the stamp report, it appears that there exists a delay in filing of the present FAO, however the exact number of days of delay has not been calculated due to non-filing of certified copy of the impugned judgment dated 26.02.2018 passed in G.I.A Case No.29 of 2008.
 5. Learned counsel for the Appellants at this juncture contended that the certified copy of the order dated 26.02.2018 has already been filed on 06.02.2026. Although the appeal was presented on



19.03.2018 challenging order dated 26.02.2018, however due to non-filing of the certified copy of the impugned judgment the appeal was not registered and the same was not taken up for admission. As such, there exists long delay till filing of the certified copy of the impugned order dated 26.02.2018. On perusal of the record, it appears that the matter was initially listed on 18.06.2019. Thereafter, the same is being listed for second time today.

6. Taking into consideration the aforesaid fact that the matter was not listed earlier by this Court and further considering the grounds taken in the I.A. application for condonation of delay. This court is inclined to condone the delay in the larger interest of justice since failure to condone the delay would cause serious prejudice to Petitioner. Accordingly, the delay in filing of the FAO is condoned subject to payment of cost of Rs.2,000/- to the Orissa High Court Bar Association Welfare Fund.

7. Accordingly, I.A. stands allowed.

FAO No.277 of 2018

8. Heard learned counsel for the Appellants as well as the learned counsel for the Respondent-State.

9. Being aggrieved by impugned order dated 26.02.2018 at Annexure-8 passed in G.I.A Case No.29 of 2008 by the learned State Education Tribunal, Bhubaneswar, the Appellants have approached this Court by filing the present appeal.

10. On perusal of the appeal memo, it appears that there are two Appellants in the present appeal. They were Petitioner Nos.12 & 13 before the learned State Education Tribunal.

11. Initially, 13 Petitioners approached the learned State Education



Tribunal with a prayer under Section 24(B) of the Odisha Education Act, 1969 challenging order dated 28.07.2004, whereby the appointment of Applicant Nos.2 to 11 have been approved and the block grant has been released w.e.f. 01.01.2004 instead of grant-in-aid under the Orissa Education (Payment of Grant-in-Aid to High Schools and Upper Primary Schools etc.) Order, 1994. The learned Tribunal considered the case of the applicants before it and eventually found that the Applicant Nos.12 & 13 have not filed their order of approval of their appointment along with their G.I.A application for adjudication by the State Education Tribunal. Eventually, the learned State Education Tribunal, while allowing the application in respect of the Applicant Nos.2 to 11 for grant of G.I.A, dismissed the application in respect of Applicant Nos.12 & 13. The learned Tribunal further directed the Opposite Party Nos.1, 2 & 3 to modify the order of approval at Annexure-9 and to notionally fix the pay of the Applicant Nos.2 to 11 in terms of the G.I.A order, 1994, w.e.f. 01.06.1994 taking into consideration the date of their appointment and the date of admissibility of the post within a period of four months.

12. Upon hearing the learned counsel for the Appellants as well as learned counsel for the State and on a close scrutiny of the impugned order dated 26.02.2018 at Annexure-8, this Court observes that while considering the case of Applicant Nos.2 to 11, the learned State Education Tribunal, Odisha, dismissed the case of the Applicant Nos.12 & 13, who are the Appellants in the present FAO. Learned counsel appearing for the Appellants at the outset contended that although the order of approval was produced before the learned Tribunal, however the same was not considered by the Tribunal. In course of hearing, learned counsel for the Appellants, drawing



attention of this Court to the orders at Anenxure-5 series dated 10.02.2009 and 28.05.2009 stated before this Court that the appointment of the Appellants have already been approved by virtue of the aforesaid order. However, the same has not been considered by the learned State Education Tribunal while disposing of the G.I.A case filed by the Appellants along with other similarly situated persons. Though, the prayer in respect of Applicant Nos.2 to 11 was allowed.

13. Learned counsel for the State on the other hand contended that from the impugned order itself it is clear that the order of approval was not produced before the Tribunal at the time of hearing of the G.I.A application. Thus, the Tribunal has not committed any illegality rejecting the prayer of the present Appellants.

14. Taking into consideration the submissions made by the learned counsels appearing for the Appellants as well as the learned counsel for the Respondent-State, this Court observes that the Appellants along with the present FAO have filed the copies of their approval order at Annexure-5 series. Moreover, while passing the order dated 26.02.2018 at Annexure-8, the learned Tribunal has allowed a similar prayer in respect of similarly situated persons except the two Appellants in the present appeal. Law is fairly well settled that the persons who stand in a similar footing are to be treated equally which is a mandate under the Constitution of India. Taking into consideration the aforesaid fact, this Court is inclined to set aside the impugned order dated 26.02.2018 so far it relates to the present Appellants. Accordingly, the order dated 26.02.2018, so far as it relates to the Appellants, is hereby set aside. Further, the matter is remanded back to the learned State Educational Tribunal to consider



the case of the Appellants afresh keeping in view the order of approval submitted by the Appellants along with a present appeal at Annexure-5 to the appeal memo. Let the Appellants approach the learned State Education Tribunal within three weeks from today along with a copy of today's order. In such eventuality, the Tribunal shall reconsider the case of the Appellants by taking into consideration the order of approval at Annexure-5 series and dispose of such application within a period of three months from the date of communication of a copy of today's order.

15. Accordingly, the present appeal stands disposed of.

(A.K. Mohapatra)

Judge

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Signature Not Verified

Digitally Signed
Signed by: RUBI BEHERA
Reason: Authentication
Location: OHC
Date: 18-Mar-2026 18:24:15

