

AIR 1987 SUPREME COURT- 1353

( From: Jammu and Kashmir)\*

M.P. THAKKAR AND B.C.RAY., JJ.

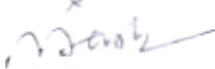
(Civil Appeal No.460 of 1987, D/- 19.2.1987 (arising out of Special Leave Ptn. (Civil) No.12980 of 1986).

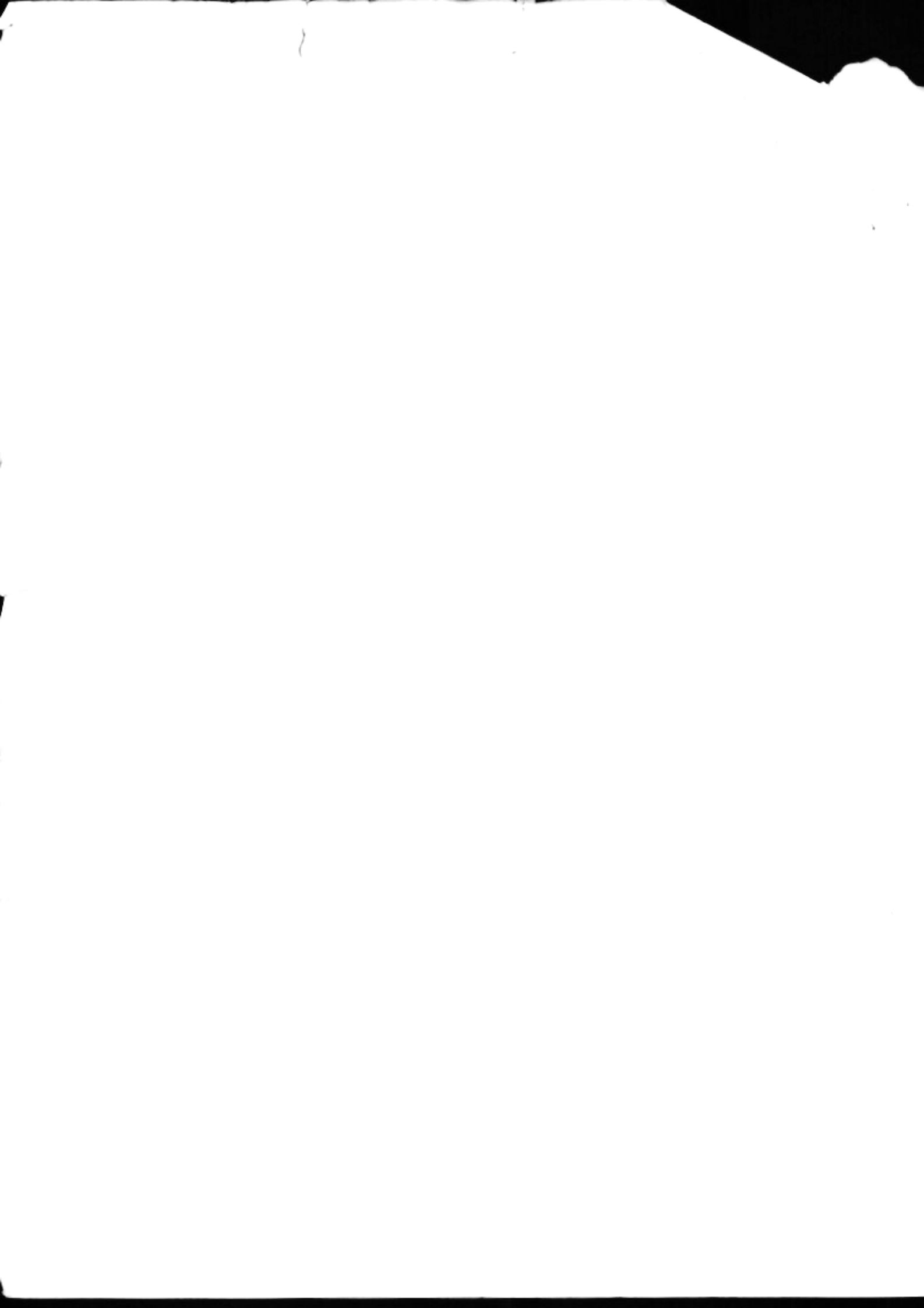
Collector, Land Acquisition, Anantnag and another,  
Appellants V. Mst. Katiji and Others, Respondents.

(A) Limitation Act (36 of 1963 ), S.5- Condonation of delay- Application for, made by State Government - Treatment similar to any other litigant to be accorded - Stepmotherly treatment to State Government in such matter is not warranted. Civil First Appeal No.54 of 1985, D/- 14.4.1986 (J&K), Reversed (Constitution of India, Art.14)

The doctrine of equality before law demands that all litigants including State as litigant, are accorded the same treatment and the law is administered in an even-handed manner. There is no warrant for according a stepmotherly treatment when the State is the applicant praying for condonation of delay. In fact on account of an impersonal machinery and inherited bureaucratic methodology imbued with the note making, file pushing, and passing on the buck ethos, delay on part of the State is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community, does not deserve a litigant non grata status. So also the approach of the Courts must be to do even handed justice on merits in preference to the approach which scuttles a decision on merits.

Attest

  
Section Officer  
Deptt. of Higher Education



IN THE HIGH COURT  
OF ORISSA, CUTTACK

*Pravakar Paikaray vs. State of Orissa & Ors.*  
W.P.(C) NO.11133 OF 2010

[O. H. C.-98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
2	15.7.2010	<p>Heard learned counsel for the petitioner and learned counsel for the State.</p> <p>The petitioner has filed this writ petition challenging the order dated 4.6.2010 passed by the Director, Higher Education, dismissing his appeal on the ground of limitation.</p> <p>Perused the impugned order dated 4.6.2010. The appeal petition of the petitioner was filed on 30.1.2010 and it was received by the Directorate on 4.3.2010. According to the Director, the petitioner had to file his appeal within one month from the date of his termination. Since the petitioner was terminated from service with effect from 15.1.2010, the last date for filing his appeal would be 14.2.2010.</p> <p>Law is well settled in the case of <b>Collector, Land Acquisition, Anantnag &amp; another vs. Mst. Katiji &amp; others</b> (AIR 1987 SC 1353), relevant portion of which is extracted hereunder :-</p> <ol style="list-style-type: none"> <li>1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.</li> <li>2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.</li> <li>3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.</li> <li>4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.</li> <li>5. There is no presumption that delay is</li> </ol>	

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk."</p> <p>In such view of the matter, we set aside the order dated 4.6.2010 passed by the Director, Higher Education under Annexure-2 and direct the Director to admit the appeal of the petitioner, hear the same on merit and dispose of it within a period of four months from the date of communication of this order.</p> <p>Learned counsel for the petitioner submits that the petitioner filed the appeal in time but the Director was not present in the Office. One of the Officials kept his appeal petition but did not mention the date, on which the appeal was filed.</p> <p>This being the allegation, we direct the Secretary to Government, Higher Education Department, to issue a circular so that the Directorate of Higher Education shall give a receipt of filing of appeal mentioning the date of its presentation and maintain a register to that effect.</p> <p>With the aforesaid observation and direction, the writ petition is disposed of.</p> <p>Let a free copy of this order be supplied to the learned counsel for the State.</p>	



Attested.  
10.8.10  
Sd/-

Sd - B.P. Das, J.  
Sd - B.N. Mahapatra, J.