

CORAM : HON'BLE MR. P.H. TRIVEDI : VICE CHAIRMAN  
HON'BLE MR. P.M. JOSHI : JUDICIAL MEMBER

1/12/1987

Heard Mr. B.J. Shethna and Mr. J.D. Ajmera learned counsel for the applicant and the respondent respectively. The order of dismissal is dated 15-1-1985 and it follows conviction in a court against which the appeal has been filed in the Gujarat High Court. Against the order of dismissal to the appellate authority 12/15-10-1987 on account of limitation or other reasons the appellant apprehends that he may have to wait unduly for six months and the appellate authority ~~may~~ <sup>not</sup> ~~have been~~ communicated whether the appeal has been entertained or not. He also apprehends that on account of delay which may not be condoned the appellate authority may not entertain the application. He urges that Section 21 of the Administrative Tribunals Act, provides for a Tribunal admitting the appeal, ~~xx~~ even prior to the period of 6 months during the pendency of the appeal. The petitioner is a Schedule Caste person and is out of employment and desires speedy relief which should not be denied to him on a technical ground that he has not exhausted the jurisdiction. After hearing the learned advocate we find that the applicant <sup>himself</sup> has taken quite sometime in preferring the same against the order of dismissal. We also find that although he has challenged the dismissal as being illegal he has chosen to resort to the appellate authority for redressal. In the circumstances we find that it is a fit case in which the facts and circumstances can be duly appreciated by the appellate authority for disposing of the cases. In order to relieve the apprehension the appellate authority might not even regard entertaining of the appeal and may

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refuse to do so on the ground of limitation, We direct that the appellate authority condone the delay so that the limitation is not a bar in entertaining it and decide upon entertaining the appeal within one month from the date of this order. The petitioner is free to approach the Tribunal in the event of the appellate authority refusing to entertain the appeal so communicating its decision or, if he has a grievance after the period of 6 months from the date of this order of the dismissal of the appeal.

With this observation the petition is disposed of as withdrawn on the petitioner's learned advocate requesting permission for withdrawal.

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( P.H. TRIVEDI )  
VICE CHAIRMAN

*Joshi*

( P.M. JOSHI )  
JUDICIAL MEMBER