IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4117 of 2026

Union of India and another **.....** ***Petitioners***

-versus-

Sri Suresh Prasad Gupta **.....** ***Opposite Party***

For Petitioners … Mr. P.K. Parhi, DSGI,
along with
Mr. A. Mohanty, CGC

For Opposite Party … In person

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

Date of hearing : 10.07.2026 :: Date of judgment : 14.10.2026

A.K. Mohapatra, J. The present Writ Petition under Articles 226 and 227 of the Constitution of India has been filed by the Union of India, represented by the Superintendent of Post Offices, Bhadrak Division, and the Postmaster, Bhadrak Head Post Office (hereinafter jointly referred to as "the Petitioners"), assailing the order dated 30.10.2025, at Annexure-1, passed by the Odisha State Con sumer Disputes Redressal Commission,

Cuttack (hereinafter the "SCDRC") in F.A. No. 317 of 2025. The SCDRC, vide the impugned order, has rejected the Petitioners' application filed under Section 5 of the Limitation Act, 1963 seeking condonation of delay in preferring the said appeal, and consequently dismissed the appeal without examining the same on merits. The appeal itself was directed against the order dated 01.08.2024 passed by the District Consumer Disputes Redressal Commission, Jajpur (hereinafter the "DCDRC") in T.C.C. Case No. 162 of 2022 (originally instituted as C.D. Case No. 47/2021), whereby the DCDRC had allowed the consumer complaint filed by Sri Suresh Prasad Gupta (hereinafter "the Opposite Party") against the Petitioners.

FACTUAL MATRIX OF THE CASE

1. The factual matrix of the case at hand, in a nutshell, is as follows; the Petitioners are Central Government authorities/officers associated with the postal network and various savings schemes administered through the Department of Posts, including the Public Provident Fund scheme. The father of the Opposite Party, late Dwarika Prasad, had opened a Public Provident Fund (PPF) account bearing old Account No. 2000058 (New CBS Account No. 1015062038) on 26.03.2001 in the name of "DWARIKA PRASAD HUF", a Hindu Undivided Family

("HUF"), at the Bhadrak Head Post Office. The last deposit of Rs.10, 000/- into the said account was made on 30.03.2011.

2. Subsequently, by notification No. GSR 291(E) dated 13.05.2005, issued by the Government of India, Ministry of Finance (Department of Economic Affairs), at Annexure-2, and circulated vide the Department of Posts' SB Order No.10/2004 dated 23.06.2005 and SB Order No.07/2005 dated 16.05.2005, at Annexures-3 and 4 respectively, the opening of PPF accounts in the name of an HUF was discontinued. Thereafter, by notification No. GSR 956(E) dated 07.12.2010, circulated vide SB Order No.23/2010 dated 13.12.2010, at Annexure-5, it was directed that PPF accounts already opened in the name of an HUF prior to 13.05.2005 would mandatorily close on maturity, i.e., on the 31st of March of the sixteenth financial year reckoned from the year of opening, and that no further interest would be admissible thereafter. Since the PPF account in the name of the aforesaid HUF, bearing old Account No. 2000058, was opened on 26.03.2021, it matured on 31.03.2016, as per the SB Order No.23/2010. However, the Opposite Party did not approach the Post Office for closure of the aforesaid PPF account upon its maturity on 31.03.2016, and instead approached the Bhadrak Head Post Office only on 15.04.2019 seeking closure.

3. Upon closure of the aforesaid PPF account, a sum of Rs.1,20,906/- was paid to the credit of the account through cheque bearing No. 003977 dated 15.04.2019, drawn in the name of "Dwarika Prasad", followed by a duplicate cheque bearing No. 004177 dated 21.05.2019, issued in the name of the Opposite Party, Sri Suresh Prasad Gupta, in lieu of the earlier cheque, as the original account holder had, in the meanwhile, expired. On the very same date, an amount representing interest that had been erroneously credited into the account by the banking system for the period after maturity, was deducted by the then Postmaster, Bhadrak Head Office. On such date of closure, the interest that had accrued on the aforesaid account for the intervening period from 31.03.2011 (the date of the last deposit) to 31.03.2016 (the date of maturity) had remained unpaid. However, later, the amount of Rs.61,163 (Rupees Sixty One Thousand One Hundred and Sixty Three) was made over to the Opposite Party vide a cheque bearing No.00981, along with intimation to the Opposite Party by endorsing a copy vide office letter No. CD Case No.47/2021 dated 18.01.2023 and C.O. e-mail dated 05.01.2023, a copy of such intimation is at Annexure-6.

4. While the matter stood thus, the Opposite Party instituted a consumer complaint bearing C.C. Case No. 47/2021 on 23.04.2021, before the DCDRC, Bhadrak, which was subsequently transferred to the

DCDRC, Jajpur, and renumbered as T.C.C. Case No.162 of 2022. The DCDRC, Jajpur, vide order dated 01.08.2024, at Annexure-9, allowed the complaint in favour of the Opposite Party and directed the Petitioners to remit to him a sum of Rs. 47,415/- together with a further sum of Rs. 19,544/-, aggregating to Rs. 66,959/-, although the operative order is stated to have erroneously reflected the total as Rs. 56,959/-. The DCDRC further directed payment of interest at the rate of 9% per annum on the said sum from the date of filing of the complaint, i.e., 23.04.2021, till the date of actual payment, in addition to Rs. 20,000/- towards compensation for mental agony and harassment and Rs. 5,000/- towards the cost of litigation, the entire amount being payable within forty-five days from receipt of the order. A review petition bearing No.05/2024, under section 40 of the Consumer Protection Act, 2019, was also filed by the Petitioners and eventually disposed of on 30.10.2024 by the DCDRC, Jajpur with a few typographical corrections of its order dated 01.08.2024.

5. Consequently, against the aforesaid order of the DCDRC, Jajpur, the Petitioners preferred a First Appeal being F.A. No. 317 of 2025 before the SCDRC, Cuttack, against the order of the DCDRC, Jajpur dated 01.08.2024. Since there was a delay in filing the appeal, of 207 days as per the Petitioners and of 312 days as computed by the SCDRC,

an application for condonation of delay under Section 5 of the Limitation Act, 1963, was filed by the Petitioners. The SCDRC, vide the impugned order dated 30.10.2025, at Annexure-1, rejected the application for condonation of delay and dismissed F.A. No. 317 of 2025, with the observation the Appellants (Petitioners herein) have provided no satisfactory explanation to condone the delay of 312 days.

6. Aggrieved by the said order of dismissal, the Petitioners have approached this Court by way of the present Writ Petition under Articles 226 and 227 of the Constitution of India, seeking to set aside the order of the SCDRC and for a direction that the appeal be adjudicated on merits.

CONTENTIONS OF THE PETITIONERS

7. Heard Mr. P. K. Parhi, learned DSGI along with Mr. A. Mohanty, learned CGC, appearing for the Petitioners. Learned counsel for the Petitioners, while assailing the impugned order, at the outset contended that the allegations levelled against the Petitioners by the Opposite Party are baseless, and that the entire dispute is a product of the Opposite Party's own misunderstanding of the applicable rules and negligence in not approaching the Post Office for closure of the PPF account upon its maturity.

8. It was submitted that the Opposite Party was duly paid the amounts to which he was lawfully entitled to receive, i.e., Rs.1,20,906/-

on closure of the account in 2019 and Rs.61,163/- towards balance interest in January 2023 and, it was only the excess interest which had been credited into the account by the banking system after the date of maturity that was correctly reversed, since it was contrary to the statutory notifications GSR 291(E), dated 13.05.2005 and GSR 956(E), dated 07.12.2010 and the corresponding SB Orders, which mandated closure of HUF PPF accounts on maturity without further accrual of interest. To support their contention, the learned counsel have placed reliance on SB Order No. 03/2013 dated 12.03.2013, at Annexure-11, which provided for direct and immediate reversal of any interest erroneously credited to PPF accounts of HUFs.

9. The learned DSGI and CGC have further contended that despite the notifications and SB Orders having been duly displayed on the notice board of the Bhadrak Head Office and on the website of India Post (www.indiapost.gov.in), the Opposite Party remained unaware of the same on account of his own lack of diligence, and that no obligation lay upon the Petitioners to individually intimate every account holder since no such privilege has been extended to any other customer. Moreover, the cause of action, if any, arose within the territorial jurisdiction of Bhadrak, and that the DCDRC, Jajpur, to which the complaint later came to be transferred, lacked jurisdiction to adjudicate the matter.

10. With regard to the proceeding before the DCDRC, Jajpur, the learned counsel for the Petitioners stated that they were denied a fair opportunity to contest the complaint owing to a conspiracy against them, inasmuch as no notice of hearing was ever served either upon them or upon the Standing Government Counsel after 23.12.2022. In fact, the case status of the proceeding was also not updated on the web portal of the Commission, on account of which the Petitioners could not track the proceedings. It was also stated that the order dated 01.08.2024, passed by the DCDRC, Jajpur is erroneous and was passed without appreciating the material on record. The learned counsel contended that even though the infirmities in the order of the DCDRC, Jajpur were sought to be pointed out in a Review Petition, it was, however, disposed of with only typographical corrections and without any substantive reconsideration.

11. So far as the question of delay in filing the appeal before the SCDRC is concerned, the learned counsel for the Petitioners contended that the delay of 207 days in filing the appeal before the SCDRC was neither deliberate nor intentional, but was occasioned solely by bona fide administrative reasons attributable to the administrative front of the Union of India. It was submitted that the Panel Counsel for Union of India in consumer matters was not constituted in the State until February 2025, and active work by the panel only commenced towards the end of

March 2025. The learned DSGI and CGC contended that governmental decision-making necessarily involves multiple levels of scrutiny, internal approvals and administrative processes, on account of which delay occurring without negligence or mala fides ought to be viewed with a degree of latitude, and that the SCDRC erred in mechanically dismissing the appeal without examining the nature of the delay, the attending circumstances, or the bona fides of the Petitioners, and without regard to the prima facie merits of the appeal, which, it was submitted, ought to have weighed in favour of condonation of delay in filing the appeal.

12. Moreover, the learned counsel for the Petitioners have contended that the Opposite Party was not eligible to continue the PPF account beyond maturity in terms of the amended rules governing HUF accounts, and he was also not entitled to any benefit of interest beyond the date of maturity. To support such contention, they have placed reliance on the decision in ***Rajeshwar Rawat v. State Bank of India***, reported in ***2016 SCC OnLine Del 702***.

13. In such view of the matter, the learned DSGI and CGC appearing for the Petitioner submitted that by declining to condone the delay and thereby foreclosing adjudication of the appeal on merits, notwithstanding the administrative realities attending governmental litigation, the

SCDRC has defeated the ends of justice, warranting interference by this Court under Articles 226 and 227 of the Constitution.

CONTENTION OF THE OPPOSITE PARTY

14. Heard the Opposite Party appearing in person. The Opposite Party has resisted the Writ Petition through a written submission filed at the stage of the appeal before the SCDRC and a counter-affidavit filed in the present proceeding. As a preliminary objection, the Opposite Party contended that the Writ Petition, as originally worded, did not specifically and properly pray for setting aside the operative and impugned order dated 30.10.2025 passed by the SCDRC, and that in its absence the Writ Petition is not maintainable. Further, citing the doctrine of merger, the Opposite Party stated that once the appeal stood decided, the order of the DCDRC merged into the order of the SCDRC and could not be independently assailed without specifically impugning the appellate order.

15. On facts, it was submitted by the Opposite Party that the SCDRC rightly rejected the application for condonation of delay, and dismissed the appeal, inasmuch as the delay was neither properly nor fully explained. It was specifically pointed out by the Opposite Party that the First Appeal was filed on 14.05.2025 against the order dated 01.08.2024, entailing, on the Petitioners' own reckoning, a delay of 207 days, and

that no application for condonation of delay accompanied the appeal at the time of its filing. Instead, the application for condonation of delay came to be filed only on 28.07.2025, occasioning a further, and wholly unexplained, delay of 74 days from the date of filing of the appeal itself. It was stated by the Opposite Party that such conduct of the Petitioners is a clear indication of a lack of diligence and bona fides on the part of the Petitioners.

16. On the merits of the underlying dispute, the Opposite Party contended that he approached the Post Office Counter every year in the month of April, and that the Department itself continued to credit interest in the passbook year after year, till 31.03.2019. It is contended that such actions of the Department, without informing about the closure requirements, were not informal or inadvertent, but official acts, which created a legitimate expectation in favour of the Opposite Party that the account remained valid and operative. As such, it was submitted that the Opposite Party is not claiming any benefit contrary to the PPF scheme, but is claiming compensation and interest on the footing that the Department itself misled him by officially crediting interest into the account till 2019 without ever informing him of the closure requirements, and that this constitutes a deficiency in service on the part

of the Department under the consumer protection law, rendering it liable to compensate the Opposite Party to the extent of the interest so accrued.

17. Regarding the contention of the Petitioners that they were not allowed to contest the proceeding before the DCDRC, the Opposite Party contended that the Petitioners were afforded a full and fair opportunity to contest the complaint before the DCDRC and that the impugned order does not suffer from any jurisdictional error, perversity, or violation of the principles of natural justice such as would warrant interference by this Court under Articles 226 and 227 of the Constitution.

18. Next, the Opposite Party has submitted before this Court that the Consumer Protection Act, 2019 provides a complete statutory appellate mechanism, and that the Petitioners had an efficacious alternative remedy of approaching the National Consumer Disputes Redressal Commission ("NCDRC"), which remedy has admittedly not been availed. Therefore, the Writ Jurisdiction under Articles 226 and 227 cannot be resorted to by the Petitioners as a substitute for such statutory remedy, more particularly where the appeal itself has already been dismissed on the ground of limitation. Reliance in this behalf was placed on ***Cicily Kallarackal v. Vehicle Factory***, reported in ***(2012) 8 SCC 524***.

19. Furthermore, the Oppposite Party has also relied on ***Postmaster General v. Living Media India Ltd.***, reported in ***(2012) 3 SCC 563***, for

the proposition that the law of limitation binds the Government equally with private litigants, and that administrative delay or movement of files does not, by itself, constitute sufficient cause for condonation of long or inordinate delay. Likewise, referring to ***Basawaraj v. Special Land Acquisition Officer***, reported in ***(2013) 14 SCC 81***, the Opposite Party stated that the law of limitation is founded on public policy, that condonation of delay is a matter of judicial discretion and not of right, and that delay cannot be condoned where a party has acted negligently or without bona fides, which, it was submitted, is squarely applicable to the facts of the present case having regard to the unexplained delay of 74 days in filing the condonation application after the appeal itself had already been lodged beyond time. The Opposite Party also submitted that ***Rajeshwar Rawat v. State Bank of India***, reported in ***2016 SCC OnLine Del 702***, cited on behalf of the Petitioners, is distinguishable from the present case, inasmuch as the Petitioners continued to enter interest amount in the passbook till 2019, creating a legitimate expectation, and, as such, were under a duty to inform the Opposite Party.

20. Lastly, the Opposite Party submitted being a senior citizen, aged about 73 years, he has been pursuing the matter personally before the consumer fora and now before this Court for a considerable period without the assistance of counsel, and that the present Writ Petition is but

a continuation of a frivolous and vexatious attempt on the part of the Petitioners to avoid payment of amounts lawfully due to him. Accordingly, it was prayed that the Writ Petition be dismissed, the impugned order dated 30.10.2025 be upheld, and reasonable costs be awarded in favour of the Opposite Party.

ANALYSIS OF THE COURT

21. Heard the learned DSGI along with the learned CGC, appearing for the Petitioners, and the Opposite Party appearing in person. Perused the materials placed on record including the order dated 30.10.2025 passed by the SCDRC, the order dated 01.08.2024 passed by the DCDRC, and the written submissions as well as the counter-affidavit filed on behalf of the Opposite Party.

22. Before proceeding further, it is apposite to address the preliminary objection raised on behalf of the Opposite Party touching upon the maintainability of the Writ Petition, founded on the doctrine of merger and the manner in which the prayer portion of the Writ Petition has been worded. Undoubtedly, once the order of the DCDRC dated 01.08.2024 came to be tested in appeal before the SCDRC, it stood merged into the appellate order dated 30.10.2025, and it is that appellate order alone which, remains amenable to challenge in the present Writ Petition. However, upon a conjoint reading of the grounds urged and the

substance of the Writ Petition, it is manifest that the Petitioners have, throughout, sought to assail the order dated 30.10.2025 passed by the SCDRC in F.A. No. 317 of 2025. The reference in the prayer portion to order dated "30.10.2024" appears to be an inadvertent, typographical transposition of the date. Since the pleadings are to be read as a whole, a clerical error in the prayer clause, where the intent and substance of the challenge are otherwise unambiguous from the body of the petition, does not by itself render a petition non-maintainable. This Court is, therefore, is of the considered opinion that the present Writ Petition is maintainable.

23. Next, with regard to the second objection to the maintainability of the present Writ Petition on the ground of availability of an alternative statutory remedy, it is an admitted fact that the Consumer Protection Act, 2019, specifically Section 51, provides a statutory appellate mechanism for appeal before the NCDRC and, ordinarily a litigant ought to pursue the remedy provided by the statute. To strengthen the aforesaid objection, the Opposite Party has relied on ***Cicily Kallarackal v. Vehicle Factory***, reported in ***(2012) 8 SCC 524***, wherein the Hon'ble Apex Court dealt with the issue of the jurisdiction of the Kerala High Court to entertain a writ against the order of the NCDRC since an appeal against such order lay before the Supreme Court. While declining to entertain

the SLP, the Hon'ble Apex Court observed that condoning the inordinate delay, in that case, without any sufficient cause, would amount to substituting the limitation prescribed by the statute and emphasised the need for caution in entertaining Writ Petitions against orders of consumer fora where the statute provides an appellate remedy. However, such a principle is one that governs the exercise of discretion and not one which denudes the High Court of its constitutional jurisdiction under Article 226 of the Constitution.

24. In this regard, reference may be had to ***Whirlpool Corporation v. Registrar of Trade Marks***, reported in ***(1998) 8 SCC 1***, wherein the Hon'ble Supreme Court made it clear that the existence of an alternative remedy does not constitute an absolute bar to the exercise of writ jurisdiction.

> **"*14.*** *The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".*
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> ***15.*** *Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative*

remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.

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20. *Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation."*

(Emphasis Supplied)

25. The same principle was comprehensively stated in ***Radha Krishan Industries v. State of Himachal Pradesh***, reported in ***(2021) 6 SCC 771***, at paragraph 27 onwards. The Hon'ble Supreme Court recognised that the High Court ought to ordinarily exercise restraint where an efficacious alternative remedy is available, but made it equally clear that an alternate remedy by itself does not divest the High Court of its powers under Article 226 in an appropriate case. The Hon'ble Apex Court also identified the recognised exceptions to the principle and

clarified, at paragraph 27.5 that the rule requiring exhaustion of a statutory remedy is one of policy, convenience and discretion. The relevant paragraphs are quoted hereinbelow for reference;

> "***27.*** *The principles of law which emerge are that:*
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> ***27.1.*** *The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.*
>
> ***27.2.*** *The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.*
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> ***27.3.*** *Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.*
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> ***27.4.*** *An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.*
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> ***27.5.*** *When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.*
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> ***27.6.*** *In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.*"
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> **(Emphasis Supplied)**

26. Likewise, recently in ***M/s Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority***, reported in ***2023 SCC OnLine SC 95***, particularly paragraph 4, the Hon'ble Supreme Court held that the power under Article 226 is plenary, that the availability of an alternative remedy is a self-imposed restriction upon its exercise and not a rule of law ousting jurisdiction and, importantly, that "maintainability" and "entertainability" of a writ petition are distinct concepts. The mere availability of an alternative remedy does not render a writ petition non-maintainable, though the High Court may, in the exercise of its discretion, ordinarily decline to entertain it where an effective and efficacious alternative remedy exists. The Court further cautioned that a Writ Petition ought not to be dismissed mechanically on the ground of an alternative remedy without examining whether the case warrants an exception to the ordinary rule.

> *"**4.** Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by article 226 of the Constitution having come across certain orders passed by the High Courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. The power to issue prerogative writs under article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to article 329 and ordainments of other similarly worded articles in the*

Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the High Court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the High Courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under article 226 that has evolved through judicial precedents is that the High Courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under article 226 has not pursued, would not oust the jurisdiction of the High Court and render a writ petition "not maintainable". In a long line of decisions, this court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the "maintainability" of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the High Courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a High Court for very many reasons or

relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a High Court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper."

(Emphasis Supplied)

27. In this regard, it is also necessary to remind ourselves of the scope of the jurisdiction of this Court under Article 226 and 227 of the Constitution of India. While Article 226 confers a broad power of judicial review, the jurisdiction under Article 227 is one of superintendence over subordinate Courts and Tribunals and is not to be exercised as an appellate jurisdiction. In ***Shalini Shyam Shetty v. Rajendra Shankar Patil***, reported in ***(2010) 8 SCC 329***, particularly at paragraph 49, the Hon'ble Supreme Court reiterated that the High Court may exercise supervisory jurisdiction, inter alia, to ensure that a subordinate tribunal remains within the bounds of its authority and exercises jurisdiction vested in it and that interference may be warranted where there is patent perversity, gross and manifest failure of justice, or a flouting of the basic principles of natural justice. At the same time, the Apex Court cautioned that Article 227 cannot be invoked merely to correct every error of fact or law or to substitute one possible view for another. The relevant observations in paragraph 49 are quoted below;

"*49.* *On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:*

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(d) *The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh [AIR 1954 SC 215] and the principles in Waryam Singh [AIR 1954 SC 215] have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.*

(e) *According to the ratio in Waryam Singh [AIR 1954 SC 215] , followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, "within the bounds of their authority".*

(f) *In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.*

(g) *Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.*

(h) *In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.*

(i) *The High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in L. Chandra Kumar v. Union of India [(1997) 3*

SCC 261 : 1997 SCC (L&S) 577] and therefore abridgment by a constitutional amendment is also very doubtful.

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(k) *The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.*

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(m) *The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.*

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(Emphasis Supplied)

28. In a similar vein, while explaining the scope of jurisdiction under Article 227, the Hon'ble Supreme Court in ***Estralla Rubber*** **v.** ***Dass Estate (P) Ltd.***, reported in ***(2001) 8 SCC 97***, observed as follows:

*"**6.** The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted*

to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to."

(Emphasis Supplied)

29. Likewise in ***Garment Craft v. Prakash Chand Goel***, reported in ***(2022) 4 SCC 181***, the Apex Court, while allowing the appeal and setting aside the impugned order of High Court, clarified that the jurisdiction under Article 227 of the Constitution of India is primarily correctional in nature with the central objective of ensuring that there is no miscarriage of justice, grave dereliction of duty or violation of fundamental principles of law or justice, and made the following observations;

"15. *Having heard the counsel for the parties, we are clearly of the view that the impugned order is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory*

jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. [Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar, (2010) 1 SCC 217 : (2010) 1 SCC (Civ) 69] The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice."

(Emphasis Supplied)

30. The present case, therefore, has to be examined not on the footing that the existence of the remedy before the NCDRC creates a jurisdictional bar, but whether the circumstances disclosed on the record justify the exercise of this Court's constitutional jurisdiction notwithstanding that remedy. The case at hand does not invite the Court to act as an appellate forum over the SCDRC or to adjudicate the correctness of the order dated 01.08.2024 passed by the learned DCDRC. Instead, the grievance of the Petitioners is directed against the manner in which the SCDRC exercised a discretion which was undoubtedly vested in it, namely, the discretion under Section 5 of the Limitation Act to determine whether sufficient cause had been shown to condone the delay in filing the appeal. The immediate question, therefore, that falls for

determination before this Court is whether the learned SCDRC was justified in rejecting the Petitioners' application for condonation of delay in filing F.A. No. 317 of 2025 and, on that basis, terminating the statutory appeal without examining the challenge to the order of the learned DCDRC

31. The jurisdiction of this Court is, therefore, invoked primarily to examine whether the discretion vested in the SCDRC to condone the delay, was exercised in a manner consistent with the settled principles governing such discretion. In such circumstances, the mere existence of a further statutory remedy cannot, by itself, furnish a sufficient ground for declining to examine whether the impugned order warrants interference in the exercise of the constitutional jurisdiction of this Court. In the event a statutory authority terminates a proceeding at the threshold without properly considering the application upon which such termination rests, the issue is not merely that another view on the facts was possible, rather, that the decision-making process itself was materially deficient. Such an instance would fall within the recognised supervisory jurisdiction of this Court, particularly where the consequence is the foreclosure of a statutory remedy and a substantive right without proper adjudication of the application.

32. On a perusal of the record, and the impugned order, it is evident that the learned SCDRC did not examine the Petitioners' First Appeal on merits, instead rejected the application for condonation of delay and dismissed the entire appellate proceeding. The Petitioners have specifically taken the plea that, at the relevant time, there was no constituted Panel Counsel for the Union of India to attend to consumer matters in the State of Odisha, and, that such Panel Counsel came to be constituted only in February 2025, beginning active work around the end of March 2025. From the material placed before this Court it is apparent that, according to the learned SCDRC, the delay in question comprises two distinct elements; one being the delay in filing the appeal, and the other being the delay in filing the application for condonation of delay. The impugned order demonstrates that the appeal was filed on 14.05.2025, which the Petitioners contend to have been filed on 10.04.2025. Also, as per the learned SCDRC, the application for condonation of delay was filed later, only on 28.07.2025, which the Petitioners specifically controvert by stating that the condonation application was filed along with the appeal. There is, thus, a material factual discrepancy between the basis on which the SCDRC appears to have computed the delay and the case placed by the Petitioners before this Court. If the application for condonation did, in fact, accompany the

appeal, the very premise that there was a further period of 74 days for which no explanation was furnished would disappear. That said, even if the record ultimately establishes otherwise, the SCDRC was required to consider the explanation furnished for the delay, both in filing the appeal and in filing the condonation application, and record its reasons for accepting or rejecting that explanation.

33. So far the principles governing the exercise of discretion while hearing a condonation of delay application are concerned, the Hon'ble Supreme Court in ***Collector, Land Acquisition, Anantnag v. Mst. Katiji***, reported in ***(1987) 2 SCC 107***, at paragraph 3, emphasised that the expression "sufficient cause" is intended to advance substantial justice and that a justice-oriented approach should be adopted while considering condonation. The Apex Court also specifically held that the State, as a litigant, is entitled to the same equitable treatment as any other litigant and that the purpose of condonation is to enable disputes to be decided on their merits where sufficient cause is made out. Similarly in ***N. Balakrishnan v. M. Krishnamurthy***, reported in ***(1998) 7 SCC 123***, at paragraph 9, the Hon'ble Supreme Court held that the length of delay is not decisive and that acceptability of the explanation is the governing consideration. Significantly, it was also observed that where the first

Court refuses to condone the delay, the superior Court is free to consider the cause shown afresh and arrive at its own conclusion.

34. The same approach was reiterated in ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy***, reported ***(2013) 12 SCC 649***, at paragraph 21, where the Hon'ble Supreme Court distilled the principles that should broadly guide consideration of an application for condonation of delay, including a liberal, pragmatic, justice-oriented and non-pedantic approach, a proper understanding of "sufficient cause" in its spirit and purpose, and a recognition that substantial justice is to be preferred over technical considerations and that the terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose, regard being had to the fact that adjudication of a *lis* on merits is a fundamental facet of access to justice

> **"*21.*** *From the aforesaid authorities the principles that can broadly be culled out are:*
> ***21.1.*** *(i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.*
> ***21.2.*** *(ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.*
> ***21.3.*** *(iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*

21.4. *(iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.*

21.5. *(v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*

21.6. *(vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.*

21.7. *(vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.*

21.8. *(viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.*

21.9. *(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.*

21.10. *(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

21.11. *(xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.*

21.12. *(xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

21.13. *(xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.*

22. *To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:*

22.1. *(a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

22.2. *(b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

22.3. *(c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

22.4. *(d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.*"

(Emphasis Supplied)

35. More recently, in ***Sheo Raj Singh (Deceased) through LRs v. Union of India***, reported in ***2023 INSC 885***, at paragraph 29, the Apex Court reiterated that the length of delay is not determinative and that the sufficiency and acceptability of the explanation must be examined on the facts of each case. The relevant portion of the judgement is quoted hereinbelow;

*"**29.** Considering the aforementioned decisions, there cannot be any quarrel that this Court has stepped in to ensure that substantive rights of private parties and the State are not defeated at the threshold simply due to technical considerations of delay. However, these decisions notwithstanding, we reiterate that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length of delay being immaterial. Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an 'explanation' and an 'excuse'. An 'explanation' is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must however be taken to distinguish an 'explanation' from an 'excuse'. Although people tend to see 'explanation' and 'excuse' as the same thing and struggle to find out the 16 difference between the two, there is a distinction which, though fine, is real. An 'excuse' is often offered by a person to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an 'excuse' would imply that the explanation proffered is believed not to be true. Thus said, there is no formula that caters to all situations and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts. At this stage, we cannot but lament that it is only excuses, and not explanations, that are more often accepted for condonation of long delays to safeguard public interest from those hidden forces whose sole agenda is to ensure that a meritorious claim does not reach the higher courts for adjudication."*

(Emphasis Supplied)



These authorities do not merely lay down that delay must invariably be condoned. Rather, they require that the statutory discretion be exercised upon a proper consideration of the explanation actually placed before the Court.

36. At the same time, it is true that when the Government is the litigant, it does not confer upon the Government an automatic or special exemption from the law of limitation. The decision in ***Postmaster General v. Living Media India Ltd.***, reported in ***(2012) 3 SCC 563*** and relied on specifically by the Opposite Party, is a salutary reminder that governmental status cannot, by itself, furnish an explanation for unexplained delay. That said, the principle in ***Living Media*** (*supra*), does not dispense with the requirement of examining the explanation offered in a particular case. The governing position, thus, is neither that every delay occasioned by governmental or administrative functioning must necessarily be condoned, nor that the Government is entitled to a more favourable standard than a private litigant. Instead, the enquiry must necessarily be directed to whether the explanation furnished is bona fide and plausible, whether it finds support in the circumstances placed before the Court, and whether refusal to condone the delay would have the effect of preventing adjudication of merits of the matter. As emphasised in ***Sheo Raj Singh*** (*supra*), there is a distinction between an

explanation and a mere excuse, and the discretion to condone delay must be exercised having regard to the facts and circumstances of each case.

37. The present case must accordingly be distinguished from a case where a Court has considered the explanation furnished, applied the settled principles, and thereafter, in the exercise of its discretion, found that sufficient cause was not made out. In such a case, the existence of an alternative remedy and the limited scope of Article 227 would ordinarily weigh heavily against interference by this Court. The present record, however, indicates that the SCDRC rejected the application on the stated ground that the delay had not been properly explained. The impugned order, as placed before this Court, does not disclose a meaningful consideration of the explanation regarding the non-constitution of the Panel Counsel, the commencement of active work of the panel, and the filing of the appeal thereafter. Furthermore, in respect of the additional delay of 74 days, if it existed, the ends of justice could have been met and any prejudice caused to Opposite Party could very well have been remedied, by imposing appropriate costs upon the Petitioners, instead of non-suiting the Petitioners at the threshold and thereby foreclosing consideration of their substantive right.

38. The requirement of a reasoned determination is itself an important facet of judicial and quasi-judicial decision-making. In ***Kranti***

Associates (P) Ltd. v. Masood Ahmed Khan, reported in ***(2010) 9 SCC 496***, at paragraph 47, the Hon'ble Supreme Court reiterated that a quasi-judicial authority must record reasons in support of its conclusions, that reasons demonstrate that discretion has been exercised on relevant grounds and by disregarding extraneous considerations and, that recording of reasons facilitates judicial review. The requirement assumes particular importance where the order has the effect of terminating a statutory appeal at the threshold. A conclusion that the delay has not been satisfactorily explained, without addressing the specific explanation placed before the authority, would not demonstrate that the statutory discretion has been exercised on the relevant material.

39. Tested on the aforesaid principles, this Court is unable to sustain the approach adopted by the learned SCDRC. The Petitioners did not merely plead a vague assertion of "administrative delay", they have, instead, identified a specific institutional circumstance, namely, the absence of a constituted Panel Counsel for consumer matters in the State of Odisha, stated when such counsel was constituted, when active work commenced, and thereafter identified the date on which the appeal was presented. The explanation, thus, had a specific factual foundation and ought to have been examined in that factual context, and whether it

ultimately constitutes a "sufficient cause", is a matter for judicial determination.

40. It is also necessary to keep in view the nature of the relief which would follow from the interference of this Court, at this stage. At present, it is not incumbent upon this Court to decide whether the Petitioners' substantive challenge to the order of the DCDRC is meritorious, nor would condonation of delay, by itself, amount to an adjudication in favour of the Petitioners. Rather, it would merely permit the statutory appellate process to commence. The dispute concerning the PPF account, the applicability of the Government notifications, the entitlement to interest, compensation and costs, and all other questions arising from the order of the DCDRC would remain open for consideration by the competent statutory forum. At this stage, the substantive grounds raised in the Appeal are relevant only to the limited extent that the Appeal is not a purely academic exercise and that refusal to consider the condonation application would have the consequence of foreclosing adjudication of the Petitioners' challenge to the DCDRC's order. This Court does not, however, propose to express any opinion on the correctness of those grounds. The object of the present exercise is to ensure that the statutory appellate remedy is not defeated by an

application of the law of limitation, which itself is vitiated by non-consideration of the material explanation placed before the SCDRC.

41. This Court is also conscious of the fact that Article 227, as discussed above, is a power of superintendence and not an appellate jurisdiction, and that the existence of the remedy before the NCDRC ordinarily constitutes a restraint upon its exercise. But the present intervention can be confined to the correction of the decision-making process. The Court is not required to re-appreciate the merits of the consumer dispute, nor to substitute its assessment of the evidence for that of the SCDRC. At the highest, the Court is required to ensure that the SCDRC exercises the jurisdiction vested in it under Section 5 of the Limitation Act, upon consideration of the application before it, and by applying the correct legal principles. Such limited intervention is consistent with the supervisory jurisdiction recognised in ***Shalini Shyam Shetty*** (*supra*), and does not convert this Court into a Court of appeal over the SCDRC.

42. Moreover, this Court is of the further view that no irreparable prejudice, which could not be adequately compensated by an award of appropriate costs, would be occasioned to the Opposite Party by the condonation of the delay, inasmuch as it would merely result in the appeal being heard and decided on its own merits. As against this, an

outright foreclosure of the appeal on the technical ground of delay would permanently deprive the Petitioners of an adjudication on the substantive defence sought to be raised, a consequence disproportionate to the nature and extent of the default, which, even on the SCDRC's own computation, is not shown to be actuated by mala fides or by a design to overreach the process of law.

43. For the foregoing reasons, this Court is of the considered view that the approach of the SCDRC in mechanically dismissing the appeal solely on the ground of delay, without a holistic consideration of the explanation offered, the institutional cause underlying it, and the prima facie merits of the appeal, amounts to an unduly restrictive and technical exercise of discretion that does not accord with the liberal standard consistently enunciated by the Hon'ble Supreme Court for condonation of delay.

44. Consequently, the present Writ Petition is allowed. The impugned order dated 30.10.2025, at Annexure-1, passed by the SCDRC, Cuttack, in F.A. No. 317 of 2025, is hereby set aside. As such, the appeal before the SCDRC is restored to file and the matter is remanded to the learned SCDRC for re-consideration along with the condonation of delay application, in light of the discussion made hereinabove.

45. Additionally, having regard to the fact that the Opposite Party is a senior citizen who has been compelled to contest this litigation over a protracted period on account of the delay attributable to the Petitioners, and as a condition attached to the condonation of such delay, the Petitioners shall pay to the Opposite Party a cost of Rs.5,000/- (Rupees Five Thousand only) within a period of four weeks from today, without prejudice to the rights and contentions of either party in the appeal to be decided afresh.

46. It is clarified that nothing in this judgment shall be construed as an expression of opinion on the merits of the underlying dispute between the parties, and all such questions are left open for determination by the SCDRC in accordance with law.

47. The Writ Petition is, accordingly, disposed of.

(*A. K. Mohapatra*)
Judge

Orissa High Court, Cuttack.
The 14th October, 2026/Debasis Aech, Secretary

Signature Not Verified
Digitally Signed
Signed by: DEBASIS AECH
Designation: SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 14-Oct-2026 16:50:01