

**(2015) 10 JH CK 0123**

**In the Jharkhand High Court**

**Case No : A.C. (S.B.) Nos. 18 and 19 of 2011**

Guru Govind Sing Public School and Others

APPELLANT

Vs

Jharkhand Abhibhawak Manch

RESPONDENT

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**Date of Decision : 05-10-2015**

**Acts Referred:**

Jharkhand Education Tribunal Act, 2005 — Section 10, 10(2), 11(1), 15

**Citation :** (2015) 4 AJR 426 : (2015) 4 JLJR 506

**Hon'ble Judges :** Dhruv Narayan Upadhyay, J.

**Bench :** Single Bench

**Advocate :** V.P. Singh, Senior Advocate and Rama Kant Tiwari, for the Appellant;  
Bal Krishna Mishra, for the Respondent

**Final Decision :** Disposed Off

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## **Judgement**

Dhruv Narayan Upadhyay, J.—I.A. No. 5047 of 2015 in A.C. (S.B.) No. 18 of 2011 and I.A. No. 5048 of 2015 in A.C. (S.B.) No. 19 of 2011 have been filed on behalf of the respondents on the ground that the appeals are time barred and provision of Limitation Act shall apply. In Jharkhand Education Tribunal Act, 2005 (hereinafter referred to as the "Act"), no procedure for entertaining appeals in the High Court has been indicated and, therefore, the general provision of procedure laid down under Code of Civil Procedure shall be applicable. If procedure of Code of Civil Procedure shall be applicable, Limitation Act, 1963 shall come into picture and, therefore, the appeals are time barred. On the other hand, counsel appearing for the appellant has submitted that section 11(1) of the Act speaks that the Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908). This appeal has been filed under section 15 of the Act and no period of limitation within which an appeal shall be filed is indicated. This Hon'ble Court in the case of Rana Tirkey Vs. DAV College Trust and Management Society, The Regional Director, DAV Public School and DAV Public School--> has also discussed the issue and held that Limitation prescribed under Article 156 of Limitation Act, 1963 shall not govern an appeal

filed under section 15 of the Act, but the appeal must be preferred within a reasonable time.

2. This Court has not clearly indicated as to what would be the reasonable time for presenting an appeal under section 15 of the Act against the order passed by the Education Tribunal, but then section 10 of the Act speaks about limitation, which is as under:

"10. Limitation.- (1) A tribunal shall not admit an application, unless-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date of the establishment of this Tribunal; and

(b) no proceeding for the redressal of such grievances had commenced before the said date before any High Court.

(2) Besides cases admissible for adjudication under sub-section (1), an application may be admitted within a period of six months from the date of the issue of the order by an educational institution. This limitation may be condoned by the Tribunal if it is satisfied that there exists sufficient cause for not making the application within such period."

3. According to section 10(2) of the Act, an application may be admitted within a period of six months from the date of issue of the order by an educational institution. Discretion to condone the delay has also been given to the Tribunal meaning thereby the period of presenting an application for adjudication before Tribunal is six months.

4. Since period of limitation of six months is prescribed for admitting an application for adjudication before the Tribunal, it could not be imagined that there will be no period of limitation for presenting an appeal before the High Court. It is true that the Act did not prescribe any period of limitation for filing an appeal, but it is also true that the Act did not indicate any procedure for hearing an appeal. So far section 11(1) of the Act referred by this Court in the case of Rana Tirkey Vs. DAV College Trust and Management Society, The Regional Director, DAV Public School and DAV Public School--> is concerned, that is for the Tribunal to follow. It is further observed that it is necessary for the Court to see as to whether the appeal has been filed within a reasonable period or not. According to me, without any guideline, it would be difficult to decide "reasonable period" for presenting the appeal before the High Court.

In the circumstances, it can well be said, and I feel it would be safer to hold, if period of limitation of six months is prescribed for an application to be admitted for adjudication, then an appeal should also be imagined to be filed within a period not more than six months from the date of order passed by the Tribunal. Of course, liberty to condone the delay shall always remain inherent with the Appellate Court.

5. Admittedly, the appeals have been preferred against the judgment dated 19.12.2009 after delay of 639 days. The appellant has also filed I.A. Nos. 5192 of 2015 in A.C. (S.B.) No. 18 of 2011 and 5193 of 2015 in A.C. (S.B.) No. 19 of 2011 disclosing therein that the judgment so passed was not within the knowledge of appellant and it could learn only when the judgment found referred in another Case and that caused delay in presenting the appeals. It is evident from the judgment itself that the appellant was already party" in Case No. 29 of 2009 (JET) and it had been contesting the proceeding.

6. The plea taken by the appellant does not appear to be tenable and, therefore, I.A. Nos. 5192 of 2015 and 5193 of 2015 stand rejected. The appeals, which have been presented after about two years, do not appear to have been filed within reasonable time and, therefore, stand dismissed as time barred. In view of the order passed above, I.A. Nos. 5047 of 2015 and 5048 of 2015 stand disposed of.