

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 374 of 2009

Jashwant Singh Tyagi S/o Mithan Singh Tyagi, aged about 65 years, R/o House No. 1562, near Soni Floor Mill, Hanuman Nagar Road, Supela, Bhilai, Tah. & Distt.-Durg

---- Applicant

Versus

1. State Of Chhattisgarh through the Secretary, Department of Home Affairs, Mantralaya, D.K.S. Bhilding, Raipur (CG)
2. The District Magistrate Durg, Distt. Durg (CG)
3. The Sub Divisional Magistrate, Durg, Distt. Durg (CG)
4. The Superintendent Of Police, Durg Distt. Durg (CG)
5. The Station House Officer PS-Supela Bhatti, Bhilai, Distt. Durg (CG)

---- Non-applicants

For applicant

: Mr. L.C. Das, Advocate.

For Respondents/State

: Mr. Sumit Jhanwar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

20/07/2015

1. Heard on I.A. No. 1/2009 for condonation of delay in preferring instant MCC as the same is preferred after 335 days of its prescribed limitation.
2. Learned counsel for the applicant submits that Writ Petition No. 1670/2002 (Jaswant Singh Tyagi -v- State of Chhattisgarh and others) was fixed for hearing on 2-9-2008. Since counsel for the applicant was busy in another court at the time when the case was called on for hearing, he could not appear before the Court and the writ petition was dismissed for want of prosecution on 2-9-2008. The counsel same day informed the petitioner over telephone and also wrote a letter to him. The petitioner received the information of dismissal of writ petition. On 25-8-2009 when the petitioner returned from Panjab he filed this instant MCC for restoration of the writ petition. It is prayed that the petitioner has satisfactory explained the cause of delay. Therefore the MCC may be allowed and the writ petition may be restored to its original number.
3. Learned counsel for the respondents opposed the MCC.
4. For the purpose of appreciation of delay, perused the MCC. As per submissions made by learned counsel for the applicant, the petitioner was informed on 2-9-2008 over telephone regarding dismissal of writ petition for

want of prosecution which goes to show that learned counsel did his professional duty by informing the petitioner regarding dismissal of the writ petition vide order dated 2-9-2008. Nothing has been brought on record to show as to for which job or work the petitioner was in Punjab for more than a year. Simply writing that the petitioner was away from Bhilai for some work and gone to Punjab would not be sufficient to explain the delay. It is also worth mention here that the instant MCC was also once dismissed for want of prosecution on 11-9-2009 which was subsequently restored by order passed in MCC No. 539/2009 dated 25-1-2012. It show the conduct and the manner in which the petitioner has been pursuing his petition. Taking into account the entire conduct of the petitioner, in the opinion of this Court, the applicant has failed to show bonafide regarding delay.

5. In the result, the I.A. No. 1/2009 is hereby dismissed. Consequently, MCC is also dismissed in motion stage.
6. No order as to costs.

Sd/-

Chandra Bhushan Bajpai
Judge