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HIGH COURT OF CHHATTISGARH, BILASPUR

Review Petition No. 78 of 2015

Pradeep Kumar Shrivastava S/o Late Shri R.C.Shrivastava, Aged about 63 years, R/o 14 SBI Colony, Kotwali, Rajnandgaon, 491441 Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Principal Secretary, Department of Law & Legislative Affairs, Mantralaya, Raipur, Chhattisgarh.
2. High Court of Chhattisgarh, Through Registrar General, High Court of Chhattisgarh, Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner : In Person.
For Respondent/State : Ms. Madhunisha Singh, Panel Lawyer.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Manindra Mohan Shrivastava, J.

Order on Board

Per Navin Sinha, Chief Justice

01/10/2015

1. The present application has been filed to review the order dated 13.11.2014 dismissing Writ Petition (S) No. 2286 of 2012. It is barred by delay of 233 days. I.A. No. 1 of 2015 has been filed to condone delay.

2. We have heard Learned Counsel for the parties.

3. The application for condonation of delay states that the father-in-law of the Petitioner suffers from diabetes, hypertension, neuropathy and coronary heart disease. His mother-in-law is also suffering from various ailments. It then acknowledges that his in-law's elder son is a retired Police Officer. Because his mother-in-law needed personalised care, the Petitioner was forced to stay at Indore with his wife and therefore, the delay.

4. We are not satisfied that the explanation sought to be urged constitutes sufficient cause for condoning such a long and inordinate delay. Even if the

Petitioner's wife was at Indore, no reason has been furnished why the Petitioner could not come and file the present case. Moreover, according to the Petitioner himself, his in-law's elder son was a retired police officer suggesting that he has more than one son and blood relation family members apart from the Petitioner's wife.

5. We therefore find no reason to condone delay.

6. The Petitioner is a retired judicial officer questioning his compulsory retirement. Paragraph 2.10 of the review application reads as follows:

> "2.10 On 25.7.2014, this Hon'ble Court orally asked the Petitioner to challenge the order of compulsory retirement on the basis of service record, so that the Court can lift the veil and see that whether it is punitive in nature or not."

7. It displays complete lack of judicial temperament and unawareness of law. The pleadings are in teeth of the very strong observations made by the Supreme Court in AIR 1957 SC 742 (Messrs. Associated Tubewells Ltd. v. R.B.Gujarmal Modi) as follows:

> "4. We cannot, however, part from this matter without placing on record our very strong disapproval of the course that the Advocate--a very senior counsel of this Court--has adopted in making this application. In the review application he has referred in detail as to what, according to him, happened in Court on the prior (occasion and what each Judge said in the course of the arguments. The review application sets out at length what the presiding Judge said and expressed in the course of the arguments and what his views were and what the other Judges of the Bench said and expressed and what the view of each was. These statements are followed by a confident assertion how and why the application was dismissed.
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> 5. We cannot help saying that this was wholly improper. We are not saying that a Judge is in fallible. It is possible that a view which ultimately appeals to a Judge in coming to his conclusion is erroneous. That by itself can afford no ground for review. But what is improper is to assume and assert as to what a Judge's view is in making a particular order when the order pronounced does not set it out and to make references to what Judges say in course of arguments and make that a ground for rehearing.
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> 6. Judges of this Court cannot be dragged into a controversy as to whether the statements ascribed to them are correct, or express correctly and fully what they

had in view. What may have been said or expressed may often enough be in the course of tentative loud-thinking and may reflect only very partially what the Judges had in view. What ultimately weighs with the Judges in pronouncing the order, when doing so without giving reasons, may often be not reflected in what is tentatively and openly expressed.

Judges cannot be drawn into controversy over such matters. It is not consistent with the dignity of the Court and the decorum of the Bar that any course should be permitted which may lead to controversy as to what a Judge stated in Court and what view he held. Such matters are to be determined only by what is stated in the record of the Court. That which is not so recorded cannot be allowed to be relied upon giving scope to controversy. To permit the atmosphere of the Court to be vitiated by such controversy would be detrimental to the very foundation of the administration of justice.

7. xxx

8. We have permitted ourselves to make the above remarks since we felt that we would be failing in our duty otherwise.

9. We think it right also to say that what we have said above has not in any manner weighed with us in our consideration of this review application, which we have dismissed as above stated."

8. The application for condonation of delay is dismissed. The review application automatically fails.

Sd/- Sd/-

(Navin Sinha) (Manindra Mohan Shrivastava)
CHIEF JUSTICE **JUDGE**

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