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HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 237 of 2016**

- Sharad Kohle S/o Late Shri Sunder Lal Kohle Aged About 19 Years R/o Ekta Nagar, Bhilai 3, P.S. Bhilai 3, Civil & Revenue District Durg, Chhattisgarh.

---- Applicant

Versus

1. Chhattisgarh State Electricity Board Through Its Secretary, C.S.E.B., Raipur, Tahsil & District Raipur, Chhattisgarh.
2. The Joint Secretary (Karmik)-2, Chhattisgarh State Electricity Board, Raipur, Chhattisgarh.
3. The Superintendent Engineer, (Su/sa) Division-2, C.S.E.B., Durg, District Durg, Chhattisgarh.
4. Anil Sonkar S/o Late Shri Mohan Lal Sonkar Aged About 40 Years R/o Purani Basti, Sonkar Para, P.S. Kotwali Raipur, Tahsil & District Raipur, Chhattisgarh.

---- Respondents

For Applicant : Shri Wasim Miyan, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****04/04/2016**

1. This MCC has been preferred for restoration of WP No.1263/04, which was dismissed pursuant to the peremptory order passed by this Court on 27-4-06.
2. Heard on I.A. No.1, an application for condonation of delay in filing the MCC.
3. This MCC is barred by 3553 days. Learned counsel for the applicant would submit that two petitioners had preferred the writ petition, however, only one

petitioner turned up for filing the earlier MCC No.736/15, therefore, the same was withdrawn with liberty to file a duly constituted MCC and thereafter the present MCC has been preferred.

4. Perusal of the order dated 27-4-06 in WP No.1263/04, would indicate that on the said date counsel for the petitioner was present in the Court and sought time to move amendment application. This Court allowed the time and passed a peremptory order to the effect that if the needful is not done within the time prayed for, the writ petition shall stand dismissed without reference to the Court and it was directed to be listed on 19-6-06 along with other connected matters.
5. The above order is apparent that the petitioner himself sought time for moving the amendment application and the case was directed to be listed on 19-6-06, therefore, due to non-compliance, the matter was treated to be dismissed and therefore it was not listed on 19-6-06, the petitioner should have inspected the record as to why the petition was not listed along with other connected matters. The petitioner thus, kept quiet for about 9 years and preferred another writ petition WPS No.1932/15, which was clearly not maintainable on account of dismissal of the earlier writ petition, therefore, the petitioner withdrew the writ petition on 24-6-15. The petitioner thereafter preferred MCC No.736/15, which was again dismissed as withdrawn with liberty to file a duly constituted MCC. This order was passed on 8-9-15 and thereafter the present MCC has been filed on 11-3-16 i.e. after six months from the date of withdrawal of the earlier MCC.
6. Even the second writ petition was preferred in the month of May, 2015, therefore, the petitioner was aware that the writ petition has earlier been dismissed and he is required to file MCC and not the fresh writ petition.

Even this writ petition WPS No.1932/15 was preferred after nine years of dismissal of the earlier petition in non-compliance.

7. In the application for condonation of delay, the petitioner has only averred that due to *bona fide* mistake of the applicant, the whereabouts of the matter could not be traced in time. Thus, there is absolutely no explanation for the delay of 3553 days in filing the application. The petitioner being in apparent know of the peremptory order, such enormous delay of about 10 years is not to be condoned lightly unless compelling reasons and proper explanation is put forth. There being no reason assigned for such enormous delay, no case for condonation of delay is made out.
8. Accordingly, I.A. No.1 for condonation of delay of 3553 days in filing the MCC is dismissed. Consequently, the MCC is also dismissed.

Sd/-

Judge
Prashant Kumar Mishra

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