

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 753 of 2016

- Dinesh Dewangan S/o Shri Thakur Prasad Dewangan, Aged About 35 Years R/o Shahid Bhagat Singh Chowk, Jalgrih Marg, Pushpa Broiler House, Tikrapara, Raipur, Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through Secretary, Urban Administration And Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. Municipal Corporation, Raipur, Through Its Commissioner, Municipal Corporation, Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Govind Dewangan, Advocate
For Respondent No.1/State	:	Smt. Shobha Kashyap, Dy. GA
None for respondent 2 though served.		

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

21/11/2016

1. Heard on I.A.No.1/2016 for condonation of delay under Section 5 of the Limitation Act, 1963 for condonation of delay in filing the application for restoration as the instant MCC has been preferred after 1732 days of its limitation.

2. Learned counsel for the applicant submits that the applicant/petitioner was not aware of dismissal of his petition under Article 226 of the Constitution of India against the removal of one tap connection by the Municipality. When he attempted for early hearing of the matter, he was informed regarding dismissal of the writ petition. Thereafter, he had filed application for certified copy and after advise of the counsel filed the instant MCC for restoration, therefore the delay is bonafide and unintentional, hence the same may be condoned and the instant MCC may be heard on its

merits.

3. On perusal of I.A.No.1/2016 and the impugned order dated 17.10.2011 passed in WPC No. 5215/2011 whereby the petition of the petitioner/ applicant was dismissed for want of prosecution as even in the second round none appears to represent the petitioner.

4. In the said application there is no fact why learned counsel for the petitioner was not present on 17.10.2011 and when the counsel for the petitioner was aware of dismissal of the said Writ Petition. The applicant is required to explain the delay satisfactorily. As he had filed the said writ petition wherein he was represented for non-disclosure of the above facts goes to show that the applicant failed to demonstrate the delay of about 5 years satisfactorily.

5. Consequently, I.A.No.1/2016 under Section 5 of the Limitation Act as sans substance is dismissed as not maintainable.

6. Accordingly, the instant MCC is also dismissed as barred by 1732 days of its limitation.

Sd/

(Chandra Bhushan Bajpai)

Judge