

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 824 of 2015**

M/s Kailash Kumar Khedia , A Partnership Firm Duly Registered Under The Relevant Provisions Of The Indian Partnership Act 1932, Carrying On Business Of Mechanical Loading And Coal Transport Contractors Having Its Administrative Office At Khedia Talkies Buildings P. O. Mahendragarh-497442, District Surguja (M. P.) Now Chhattisgarh

---- Applicant

Versus

M/s South Eastern Coal Fields Limited (Subsidiary Of Coal India Limited) Having Its Administrative Office At Seepat Road, Bilaspur (M.P.) Now Chhattisgarh .

---- Respondent

For Applicant	:	Ms. Supriya Upasane, Advocate
For Respondent	:	Shri H.B. Agrawal, Sr. Advocate with Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

10/11/2016

1. Heard on I.A.No.1/2015 for condonation of delay in filing the instant MCC as it has been preferred after 1049 days of its limitation.
2. Learned counsel for the applicant would submit that the applicant had filed an application under Right to Information Act, 2005 for supplying the copy of arbitration agreement, which was received on 22.7.2015. Thereafter, on 13.9.2015 he had filed the

MCC, hence, the delay is bonafide, the same may be condoned and MCC No.569/98 may be restored.
3. Perused the instant MCC, copy of the order passed in MCC No.569/98 dated 5.9.2012, wherein the petitioner was granted two weeks time in the light of

objection raised by the respondent to file original or certified copy of the agreement, failing which the MCC was liable to be dismissed without further reference to the Bench. As the petitioner had not complied with the order and could not file the original or certified copy of the agreement, MCC No.569/98 stand dismissed as per peremptory order dated 5.9.2012.

4. There is nothing to demonstrate whether between those two weeks as granted to the petitioner any application was filed for extension of time or not. Also there is no fact on record whether the copy of the said agreement was with the applicant or not. In absence of any specific fact when the applicant applied for the copy of said agreement and when he received it, merely on the basis of submission of this fact in the application, the same cannot be held as fact to be admitted for itself.

5. On due consideration, as the applicant failed to demonstrate satisfactory cause for delay of 1049 days in filing the instant MCC, I.A.No.1/2015 is hereby dismissed as not maintainable.

6. Accordingly, the MCC is also dismissed as barred by limitation.

Sd/

(Chandra Bhushan Bajpai)
Judge