

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 446 of 2016**

Prahlad Kumar Choubey S/o Shri Ramlal Choubey, Aged About 42 Years
R/o Police Line, Rajnandgaon, Tahsil And District Rajnandgaon
Chhattisgarh

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Deptment Mahandi Bhawan, Mantralaya, New Raipur Chhattisgarh
2. The Chief Medical & Health Officer, Rajnandgaon, District Rajnandgaon Chhattisgarh
3. The District Malaria Officer, Rajnandgaon, District Rajnandgaon Chhattisgarh
4. State Of Madhya Pradesh, Through The Secretary, Health And Family Welfare, Vallabh Bhawan, Bhopal M.P.

---- Respondents

For Appellant:	Shri Devarshi Thakur, Advocate.
For Respondents/State:	Shri JK Gilda, Advocate General along with Shri Arun Sao, Deputy Advocate General.

Hon'ble The Chief Justice**Hon'ble Shri Justice Sanjay Agrawal****Order on Board****Per Deepak Gupta, Chief Justice****15/11/2016**

1. This Writ Appeal is directed against the order dated. 8.7.2016 passed by a learned Single Judge of this Court whereby the Writ Petition was dismissed as not maintainable.
2. The undisputed facts are that the Appellant had earlier filed a Writ Petition being Writ Petition (S) No.3176/2005 challenging the order dated 8.2.2000 whereby the services of the Appellant were terminated. On 16.7.2016, Writ Petition No.3176/2005 was dismissed as withdrawn. It would be pertinent to mention that this order was passed in the presence of Shri Rishi Sahu, Counsel for the Petitioner. No leave or liberty was reserved to file a fresh Petition. After

the Writ Petition was dismissed as withdrawn, a Review Petition was filed and this Review Petition was also withdrawn with liberty to file a fresh Writ Petition. The Learned Single Judge while granting liberty to withdraw the Review Petition, observed that the Court had not expressed any opinion about the filing or the non-maintainability of the second Writ Petition. Thereafter, the second Writ Petition was filed challenging the same order which was the subject matter of the earlier Writ Petition.

3. This Writ Petition has been dismissed on the ground that the same is not maintainable and the learned Single Judge has relied upon various judgments of the Supreme Court in **(1987) 1 SCC 5** (Sarguja Transport Service v. State of Transport Appellate Tribunal, M.P., Gwalior and others), **(2005) 5 SCC 91** (Haryana State Coop. Land Development Bank v. Neelam), **(2008) 14 SCC 58** (Ramesh Chandra Sankla vs. Vikram Cement, **AIR 1993 SC 1182** (Tahil Ram Issardas Sadarangani v. Ramchand Issardas Sadarangani and another), **AIR 2004 SCW 7254** (Ramakrishna Vivekananda Mission v. State of West Bengal and others) and **AIR 1998 SC 258** (Malkiat Singh and another v. Joginder Singh and others).

4. The law is well settled that after a party withdraws its proceedings without taking liberty from the Court to file a fresh Writ Petition on the same grounds, it cannot be permitted to file a fresh Writ Petition unless there is a new cause of action.

5. In this view of the matter, we have no other option but to dismiss the instant Writ Appeal, which is accordingly dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE