

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 895 of 2019

- M/s Punjstar Insulation Fibre Company (A Unit Of Ngp Industries Ltd.) 6 And 7 Heavy Industrial Area Bhilai, District- Durg, Chhattisgarh, Through Vice President., District : Durg, Chhattisgarh

---- applicant

Versus

- State Of Chhattisgarh Through Office Of Chief Electrical Inspector, Superintendent Engineer Electrical Safety), 36/437, First Floor, Byron Bazar, Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Uttam Pandey, Advocate.

SB: Hon'ble Shri Justice Ram Prasanna Sharma

ORAL ORDER

01-10-2019

1. Heard on I.A.No.1 of 2019, which is an application for condonation of delay in filing the instant MCC which is supported by an affidavit of Uttam Pandey.
2. Present MCC has been filed for restoration of Writ Petition No. 1131 of 2006 No./ 43 of 2016 which was dismissed on 18-10-2016 for want of prosecution.
3. The writ petition was filed against recovery of electricity bill. As per the applicant, due to bona fide mistake on the part of the counsel, he could not appear before this court when the case

was called for hearing, therefore, mistake is liable to be condoned. Reliance has been placed in the matter of **Jawant Singh Tyagi vs. State of Chhattisgarh and others (Writ Appeal No. 437 of 2015)** decided by Division Bench of this Court on 16-9-2015.

4. The said writ petition was dismissed for want of prosecution on 18-10-2016 whereas application for restoration is filed on 16-5-2019 i.e., after two years, six months and twenty-seven days.
5. I have heard, learned counsel for the applicant.
6. The question for consideration of this Court is whether the applicant has shown sufficient cause for restoration of the said petition. The test which is applied is whether the applicant honestly and sincerely intended to prosecute the petition. The application for restoration of the said petition is filed after two years, six months and twenty-seven days. It is the case where the party had knowledge about listing of the case. Filing of an application after lapse of time shows that the applicant has not acted diligently and remained inactive for a long. It can be said that the applicant has acted in negligent manner and there was want of bona fide on his part. It is not the case where applicant sincerely intended to contest the case and did its best to do so, therefore, it is the

applicant who could be blamed for non-prosecution of the case. The application is filed after two years, six months and twenty-seven days which is clearly after expiry of the period of limitation, in other words the application is hopelessly time barred.

7. This Court in the facts and circumstances of the case cannot ignore the period of limitation because no court shall have jurisdiction to entertain any application if the same has been filed after expiry of the period of the limitation. The application is evidently time barred and looking to the gross negligence of the applicant this Court has no reason to restore the said appeal. The case law is distinguishable to the facts and circumstances of the present case.
8. Accordingly, the instant MCC is liable to be and hereby dismissed. Consequently, I.A. No. 1/2019, application for condonation of delay in filing the present MCC also stands dismissed.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju