

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 875 of 2019

- Jeevan Lal Chandrakar S/o Late Shri Makhan Lal Chandrakar Aged About 68 Years Rtd. Accountant, Block Education Office Dongargarh, District- Rajnandgaon, Chhattisgarh.,

---- Applicant

Versus

1. State Of Chhattisgarh Through The Secretary, Education Department, D.K.S. Bhawan Raipur, District- Raipur, Chhattisgarh.
2. District Education Officer Rajnandaon, District- Rajnandgaon, Chhattisgarh..
3. Block Education Officer Dongargarh, District- Rajnandgaon, Chhattisgarh..
4. Joint Director Trasury Account And Pension Department, Raipur, Division, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Applicant : Mr. Saket Pandey, Advocate.

SB: Hon'ble Shri Justice Ram Prasanna Sharma

ORAL ORDER

26-09-2019

1. Heard on I.A.No.1 of 201, which is an application for condonation of delay in filing the instant MCC which is supported by an affidavit of Jeevan Lal Chandrakar.
2. Present MCC has been filed for restoration of WP(S) No.. 4307 of 2012 which was dismissed on 17-3-2017 for want of prosecution.

3. 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. The said petition was dismissed for want of prosecution on 17-3-2017 whereas application for restoration is filed on 29-8-2019 i.e., after two years, five months and twelve days.
4. I have heard, learned counsel for the applicant.
5. 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, five months and twelve 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, five months

and twelve days which is clearly after expiry of the period of limitation, in other words the application is hopelessly time barred.

6. 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 petition.
7. Accordingly, the instant MCC is liable to be and hereby dismissed at motion stage itself. 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