

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 430 of 2020**

{Arising out of order dated 02.09.2020 passed by the learned Single Judge in Writ Petition (S) No. 8357 of 2019}

- Kunal Biswas, S/o Narayan Chandra Biswas, aged about 47 years, Caste Namosudra (Bengali), Occupation Panchayat Secretary, Gram Panchayat, Kanker, Tahsil Pakhanjur, District Kanker (C.G.)

---- Appellant

Versus

1. State of Chhattisgarh, Through: Collector, Kanker, District Kanker (C.G.)
2. Chief Executive Officer, Janpad Panchayat, Koilibada, District Kanker (C.G.)
3. Dhasroo Ram Mandavi, Sarpanch, Gram Panchayat, Pakhanjura, District Kanker (C.G.)
4. Dipankar Haldhar, S/o Bashish Haldhar, R/o P.V. 27, Gram Panchayat Hanker, District Kanker (C.G.)

---- Respondents

For Appellant	:	Shri Yogesh Pandey, Advocate.
For Respondents/State	:	Shri Ashish Tiwari, Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge
Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

09.12.2020

1. Dismissal of the Writ Petition (S) No. 8357 of 2019 holding that the same is not maintainable in view of the exactly same cause of action projected in the earlier round of litigation by way of Writ Petition No. 1103 of 2002, which ended up in dismissal for want of prosecution and dismissal of the subsequent series of MCCs filed for restoration of the proceedings one after the other, is put to challenge in this appeal.

2. The sequence of events is as follows: The Appellant was appointed as the Panchayat Secretary vide Annexure P/2 order dated 11.03.1999 issued by the District Collector, Kanker. However, his service came to be terminated as per Annexure P/1 order dated 14.05.2002, which was sought to be challenged by filing Writ Petition No. 1103 of 2002, mainly contending that the impugned order was contrary to the provisions of the 'Chhattisgarh Panchayat Raj Adhiniyam, 1993' and also in violation of the principles of natural justice, for having not issued any show cause notice or conducted any enquiry.
3. The Appellant was required to cure the defects/defaults noted by the Registry and as per the order dated 09.03.2007, one week's time was granted, holding that the writ petition would stand dismissed for non-prosecution if the defaults were not removed within time. Obviously, the defaults were not removed and hence, the writ petition came to be dismissed which was sought to be restored by filing MCC No. 253 of 2008. This case also came to be dismissed for want of prosecution on 29.10.2013, which led to filing of MCC No. 1064 of 2015 seeking for restoration of the dismissed MCC. The said MCC came to be allowed by this Court as per order dated 11.01.2016; pursuant to which MCC No. 253 of 2008 came to be restored. After hearing, the prayer was allowed on 17.03.2016; subject to payment of cost of Rs. 1,000/- within one week; making it clear that the benefit granted by the order will not be there if the cost was not satisfied within the time specified. Admittedly, the cost was not paid and the benefit granted by the order got vanished. This made the Appellant to file another case for restoration as MCC No. 215 of 2017, which was allowed as per order dated 10.03.2017, subject to payment of a cost of Rs. 10,000/-. Since the Appellant did not satisfy the said amount, but filed another case as MCC No. 499 of 2019 for

extension of time to effect the deposit. The prayer was declined and the said MCC was dismissed on 19.06.2019.

4. Instead of satisfying the cost and getting the case restored, the Appellant probably found it convenient to file another ease as Writ Petition (S) No. 8357 of 2019 challenging Annexure P/1 order of termination dated 14.05.2002. This was the same relief sought for in Writ Petition No. 1103 of 2002, which came to be dismissed on 09.03.2007; followed by the dismissal of the restoration applications filed as different MCCs at different points of time. The course and conduct of the Appellant/writ Petitioner was deprecated and the writ petition was dismissed as not maintainable vide judgment dated 02.09.2020, which forms the subject matter of challenge in the present appeal.
5. Despite the detailed hearing, the learned counsel for the Appellant could not point out any valid or tenable ground to hold that the proceedings pursued and finalized by the learned Single Judge are not correct or sustainable. In fact, the proceedings now sought to be pursued by the Appellant amounts to abuse of process of Court and it has to be dealt with seriously. However, in view of the submissions made by the learned counsel, we reluctantly refrain from awarding any cost, but for dismissing the appeal as devoid of any merit. It is ordered accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge