

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 8357 of 2019

- Kunal Biswas S/o Narayan Chandra Biswas Aged About 47 Years Caste Namosudra (Bengali), Occuaption Panchayat Secretary, Gram Panchayat, Kanker, Tahsil Pakhanjur, District- Kanker, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Collector, Kanker, District- Kanker, Chhattisgarh
2. Chief Executive Officer Janpad Panchayat, Koilibada, District- Kanker, Chhattisgarh
3. Dhasroo Ram Mandavi Sarpanch, Gram Panchayat, Pakhanjure, District- Kanker, Chhattisgarh.
4. Dipankar Haldhar S/o Bashish Haldhar R/o P.V. 27, Gram Panchayat Hanker, District- Kanker, Chhattisgarh.

---- Respondents

For Petitioners : Mr. Rakesh Kumar Thakur, Advocate

For State : Mrs. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02.09.2020

1. Heard
2. Learned counsel for the petitioner submits that the petitioner was terminated without holding any enquiry and without giving any opportunity of hearing, as such the Writ Petition No. 1103/2002 was filed wherein on 09.03.2007 a week's time was granted to remove the default failing which the writ petition would stand dismissed for non-prosecution and thereafter since the default was not removed within

time, the writ petition was dismissed for want of prosecution. Subsequently the MCC No. 253/2008 was filed which was dismissed by the Court on 29.10.2013 for want of prosecution and again to restore the said MCC, a new MCC bearing No. 1064/2015 was filed whereby on 11.01.2016 MCC No. 253/2008 was restored after the delay was condoned. Thereafter, the MCC No. 253/2008 was decided on 17.03.2016 with the following order:-

“17/03/2016

I.A. No.1

This is an application for condonation of delay in filing the restoration application.

It is ordered, as prayed for.

M.C.C. No. 253 of 2008

This is an application for restoration of WP No.1103/2002 which was dismissed for non-compliance of Court order dated 09.03.2007.

On due consideration and for the reasons mentioned in the restoration application, it is allowed and WP No.1103/2002 is directed to be restored to its original number, subject, however, on payment of cost of Rs.1000/- to the High Court Legal Aid Committee within a period of one week.

It is made clear, if the cost is not paid within a period of one week from today, this order shall lose its efficacy.”

3. Subsequently since the cost was not paid, again a new MCC bearing No. 215/2017 was filed wherein this Court on 10.03.2017 has passed the following order:-

“1.By this application, the applicant prays for extension of time to comply with the order dated 17.03.2016 passed in MCC No.253/2008.

2.On due consideration, the MCC is allowed and two

weeks' time is extended to the applicant to comply with the order dated 17.03.2016, subject, however, on payment of cost of Rs.10000/- (ten thousand) to the HIGH COURT OF CHHATTISGARH **MIDDLE INCOME GROUP LEGAL AID SOCIETY** within the same period.

3.It is made clear, if the cost is not paid within a period of two weeks from today, this order shall lose its efficacy.”

4. Thereafter again a new MCC bearing No. 499/2019 was filed and this Court by order dated 19.06.2019 has passed the following order:-

“1.This MCC is for extension of time to comply order passed by this Court on 10.03.2017 in MCC No.215/2017 whereby while allowing prayer for restoration the applicant was directed to deposit cost of Rs.10,000/- to the High Court of Chhattisgarh **Middle Income Group Legal Aid Society** within a period of two weeks.

2.The writ petition bearing WP No.1103/2002 remained pending for about 5 years when the same was dismissed on 09.03.2007 for non-compliance of Court's order. The petitioner filed an application bearing MCC No.253/2008 on 31.07.2008 for restoration of WP No.1103/2002. The said MCC was barred by delay of 479 days. By order dated 29.10.2013 the application i.e. MCC No.253/2008 was dismissed for want of prosecution. Subsequently, the petitioner filed MCC No.1064/2015 for restoration of MCC No.253/2008. The said MCC was allowed on 11.01.2016 and restored the MCC No.253/2008. Thereafter, by order dated 17.03.2016 MCC No.253/2008 was allowed and the Writ Petition No.1103/2002 was restored subject to payment cost of Rs.1000/-. Applicant did not comply with the condition imposed in the restoration order. Therefore, he moved another MCC for extension of time to comply with the order dated 17.03.2016. In this MCC bearing No.215/2017 petitioner was directed to deposit cost of

Rs.10,000/-. However once again the petitioner failed to deposit the cost within stipulated period of 2 weeks and has now preferred this third MCC after more than 2 years from 10.03.2017.

3.Considering the repeated default made by the petitioner by not complying the orders passed by this Court, I am not inclined to allow any further time for deposit of cost. The applicant appears to be habitual in committing default, therefore, he does not deserve any leniency in the matter.

4.Accordingly, the MCC is dismissed.”

5. Instead of restoring the MCC, again the writ petition has been filed to avoid the payment of the cost in the MCC and since the original writ petition has already been dismissed with the same prayer and the MCC also stands dismissed for restoration of the original writ petition, therefore, the present writ petition is not tenable as already the same was dismissed for want of prosecution on the earlier occasion.

6. Accordingly, the writ petition stands dismissed.

Sd/-

(Goutam Bhaduri)
Judge