

CMP.No.24733 of 2019
in Rev.Appl.SR.No.39826 of 2019

M.SATHYANARAYANAN, J.,
AND
M.SUNDAR, J.

(Order of the Court was made by **M.SUNDAR, J.**)

Instant 'Civil Miscellaneous Petition' ['CMP' for the sake of brevity] has been filed with a prayer seeking condonation of delay of 682 days in representing the Review Application in Rev.SR.No.39826 of 2017, seeking to review an order dated 10.03.2017 made in W.A.No.242 of 2017. The instant CMP seeking condonation of delay and the review application have been filed by writ appellant and the writ petitioner before the Division Bench and the Single Judge respectively, but instant CMP and review have not been filed by the same counsel who was on record for by writ petitioner / writ appellant.

2. It was pointed out that review application has to necessarily be filed by same counsel who appeared in the original proceedings.

3. Mr.T.Mohan, learned counsel appearing on behalf of counsel on record for the petitioner in the instant CMP, on instructions, submits that counsel on record for the writ petitioner and writ appellant has since been appointed as Central Government Standing Counsel and therefore, there is a bar in he filing Vakalatnama in matters against Medical Council of India, which is the second respondent herein and this has necessitated filing of instant CMP and review application by another counsel on whose behalf, he is appearing. This submission is recorded.

4. From the affidavit and additional affidavit filed in support of the instant CMP and the submission of Mr.T.Mohan, learned counsel appearing on behalf of the petitioner, it is seen that the delay occurred inter-alia owing to another batch of writ appeals in W.A.No.406 of 2017 etc., batch. The reasons for delay have been articulated with specificity in Para 4 of the additional affidavit and the same reads as follows:

“4. I state that aggrieved against the above said order I have filed a W.A.No.2429/2018 before the Hon'ble Division Bench was pleased to admit the above appeal and ordered notice to the respondents. However, the respondents have not chosen to file their counter. Without affording sufficient opportunity the above writ appeal was dismissed on 12.02.2019 at an earlier stage. However, by an order dated 12.02.2019 and the same has been dismissed. I was under the huge hope that I will

be continuing my studies at the 6th respondent college in spite of the dismissal of the above writ appeal, I was put to huge mental agony and I was not able to concentrate on my daily affairs. Thereafter, I have pursued the above review petition filed in the above writ appeal No.242 of 2017 with help of my father who was employed at abroad. Soon after his arrival to India, we are able to follow up the above case and met my counsel and proceeded with the above review application.”

5. Having perused the affidavit, additional affidavit and having heard the learned counsel for the petitioner, we are satisfied that delay has been adequately explained, sufficient reasons have been adduced for condonation of delay and therefore, the prayer for condonation of delay is acceded to. In other words, instant CMP is allowed.

6. Registry is directed to process Rev.Appl.SR.No.39826 of 2017 and assign number to the same, if papers are otherwise in order. Counsel for review applicant shall remove defects / cure objections if any and counsel undertakes to do the same within one week from today. Thereafter, i.e., post numbering of Review Application, learned counsel on record for review applicant is permitted to serve notice on learned Standing Counsel for Medical Council of India, Tamil Nadu Dr.M.G.R. Medical University as well as State Counsel for respondents 1 and 5. With regard to sixth respondent,

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learned counsel on record for review applicant is permitted to serve notice on Mr.R.Priyakumar, who this Court is informed has appeared for the said institution in another collateral proceedings.

7. Registry shall show names of the counsel for respondents in the next listing on proof of service being filed and the same being in order.

8. **List on 12.02.2020 at 02.15. p.m.**

[M.S.N., J.,] [M.S. J.]
29.01.2020

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