

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 657 of 2018**

- Vijay Kumar Choubey S/o Shri A. N. Choubey Aged About 51 Years Working On The Post Of Laboratory Assistant At Government Higher Secondary School, Wadraf Nagar, District- Balrampur-Ramanujganj, Chhattisgarh...(Petitioner In W.P.S. No. 294/2005), District : Balrampur, Chhattisgarh

---- Applicant**Versus**

1. State Of M.P Now Chhattisgarh Through The Secretary Department Of Schedule Caste And Schedule Tribes Development, Ministry At Mahanadi Bhawan, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. The Collector Tribal Welfare Department, Ambikapur, District- Surguja, Now District- Balrampur, Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh
3. The Assistant Development Commissioner Tribal Welfare Ambikapur, District- Surguja Now Balrampur District- Balrampur, Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh
4. The Principal Govt. Higher Secondary School, Wadraf Nagar, District- Surguja Now Balrampur, Ramanujganj, Chhattisgarh.....(Res. No. 1 To 4 In W.P.S. No. 294/2005), District : Balrampur, Chhattisgarh

---- Non-Applicants

For Applicant	:Shri Rakesh Kumar Jha, Advocate
For State/Non-Applicants	:Shri D.C. Verma, G.A.

Single Bench: Hon'ble Shri Justice Sanjay S. Agrawal
Order On Board

02/08/2021

1. Heard on I.A.No.1/2018, an application for condonation of delay in filing the M.C.C. for restoration of WPS No.294/2005.
2. Shri Jha, counsel for the Applicant does not want to press this application in the light of order passed by the co-ordinate Bench of

this Court on 13.12.2016 in M.C.C. No.591/2016 as separate application for condonation of delay in filing the restoration petition is not required.

3. In view of the aforesaid contention of Shri Jha, the application is accordingly rejected, as not pressed.
4. Heard on admission.
5. This M.C.C. has been filed for restoration of WPS No.294/2005, which was dismissed in default vide order dated 9.4.2012.
6. Learned counsel for the Applicant submits that since the matter was an old one and, therefore, the Applicant was under impression that it will take a long time for its final disposal and when he asked about the status of the matter to his counsel, who, in turn after inquiring the same informed that the petition has already been dismissed for want of prosecution on 9.4.2012. Further contention of the Applicant is that the concerned counsel has failed to note down the listing of the said matter owing to his bonafide mistake. He submits further that since there is no malafide intention behind it and the same has been occurred bonafidely owing to the alleged mistake, therefore, the petition may be restored to its original number.
7. On the other hand, Shri Verma, counsel for the Non-Applicants has opposed the same by saying that the explanation for restoration of the petition has not been offered properly, therefore, this M.C.C. deserves to be dismissed.
8. Considering the aforesaid contention of the parties and considering

further the reasons assigned in the M.C.C. filed for restoration of the said Writ Petition(S) No.294/2005, which is duly supported by an affidavit, I am inclined to allow the same.

9. Accordingly, the present M.C.C. is allowed and the said Writ Petition (S) No.294/2005, dismissed in default on 9.4.2012 is restored to its original number, subject to payment of cost of Rs.3,000/- payable to the High Court Legal Services Committee through its Secretary within a period of one month from today.

10. In view of the above, the instant M.C.C stands disposed of.

Sd/-

(Sanjay S. Agrawal)
JUDGE