

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.C.C No.966 of 2019**

Krishna Kumar Kosaria S/o Late Vishwanath Kosaria Aged About 57 Years  
Now Aged About 69 Years . Resident Of Behind Bilai Mata Mandir Dhamtari  
Chhattisgarh....(Applicant) **---- Applicant**

**Versus**

1. State Of Chhattisgarh Through The Secretary Department Of Fisheries Dau Kalyan Singh Bhawan Now Indravati Bhawan Atal Nagar New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Assistant Director Department Of Fisheries, North Baster Kanker Chhattisgarh....(Non Applicants)

**-----Non-Applicants**

For Applicant:

Shri Goutam Khetrapal, Advocate.

For Non-Applicants/State:

Ms. Reena Singh, Panel Lawyer.

**Single Bench:Hon'ble Shri Sanjay S. Agrawal, J**  
**Order On Board**

**Through Video Conference****11.08.2021**

1. Heard on admission.
2. This M.C.C has been filed for restoration of W.P.(S) No.4202/2007, which was dismissed for non-prosecution vide order dated 22.04.2014.
3. It is contended by learned Counsel for the Applicant that the Applicant, who was 71 years old, was continuously pursuing his case through an Advocate duly engaged by him and in the year 2015, his Advocate has informed him that the matter is still pending consideration before this Court. It is contended further that in the month of August, 2019, the Applicant came to know about the accident of his Advocate, therefore, he immediately contacted him with regard to the whereabouts of his case, where he came to know that the Petition filed by him was dismissed for non-prosecution in the year 2014. Upon knowing the said fact, he immediately applied for obtaining the certified

copy of the same and contended further that when he contacted his Advocate, it was revealed to him that he was suffering from some disease and was not attending the Court regularly and was revealed further that owing to the alleged accident, his both legs have been amputated. It is contended further that the delay as occurred was not deliberate and has occurred owing to the aforesaid circumstances and therefore, praying for restoration of the Petition while adopting the liberal view in the matter.

4. On the other hand, Ms. Singh, learned Panel Lawyer appearing for the State, while opposing the said application, submits that the application seeking restoration of the Petition has been filed after passing of more than 5 years even without explaining sufficient and satisfactory reasons for the delay caused and merely on the bald averments, the instant application has been filed for its restoration without filing an application for condonation of its delay and therefore, the same deserves to be rejected.

5. Considering the aforesaid contention of learned Counsel for the parties, considering further that separate application for condonation of delay is not required to be filed in view of the order passed by the co-ordinate Bench of this Court vide order dated 13.12.2016 passed in M.C.C No.591/2016 ("Smt Jyoti vs. General Manager, Canara Bank) and considering further the reasons assigned in the application, cropped up based upon the aforesaid circumstances, which is duly supported by an affidavit, I am inclined to allow the same.

6. Accordingly, the instant M.C.C is allowed and W.P.(S) No.4202/2007 is restored to its original number. No order as to costs.

Sd/-  
(Sanjay S. Agrawal)  
**JUDGE**