

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPLICATION (APPW) NO. 179 OF 2021

IN

CRIMINAL WRIT PETITION NO. 773 OF 2017

Chandan s/o Dilip Trivedi

Vs.

State of Maharashtra, Thru. Its Secretary, Home Department, Mantralaya, Mumbai
and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. R.M. Daga, Advocate for petitioner.

Mr. I.J. Damle, APP for respondent Nos.1 to 3.

**CORAM : MANISH PITALE, &
VALMIKI SA MENEZES, JJ.**

DATE : 24.08.2022.

By this application, the applicant (original petitioner) is seeking restoration of Writ Petition No.773/2017.

2. Mr. Daga, learned counsel appearing for the applicant invited attention of this Court to the prayer clauses in the writ petition. He further invited attention of this Court to order dated 19.04.2018, wherein it was recorded that relief in terms of prayer clauses (i) to (iii) did not survive as the grievances reflected therein were satisfied, yet

Rule was granted as regards prayer clauses (iv) to (vii), which included a prayer for initiation of departmental enquiry against the original respondent No.3 (Collector). Thereafter, the counsel representing the applicant filed a Purnis seeking leave to withdraw his appearance on behalf of the applicant, which was allowed. Thereupon, by order dated 21.10.2021, notice was issued to the applicant, returnable on 16.11.2021 for engaging another counsel. Thereafter, attention of this Court was invited to the cause list of 16.11.2021, which recorded that the notice issued to the applicant for engaging another counsel was still awaited.

3. Yet on 16.11.2021, this Court passed an order, recording the fact that reliefs in terms of prayer clauses (i) and (ii) were already worked out. Thereafter, it was recorded that the Advocate representing the applicant had already withdrawn appearance and that the applicant had not pursued the matter any further. In this backdrop, this Court thought it fit to dispose of the petition by recording that no useful purpose would be served by keeping the petition pending.

4. By relying upon the contents of the present application, it is brought to our notice that there was sufficient cause to demonstrate as to why the applicant could not remain present through counsel or otherwise on 16.11.2021. It is stated on affidavit that the applicant (original petitioner) seriously desires to pursue the writ petition for prayer clauses (iv) to (vii). It is emphasized that by the aforementioned order dated 19.04.2018, this Court, despite being aware that the reliefs claimed in prayer clauses (i) and (ii) did not survive, had granted Rule specifically for considering prayer clauses (iv) to (vii).

5. In this backdrop, it is vehemently submitted on behalf of the applicant that the writ petition deserves to be restored as the applicant/petitioner desires to pursue prayer clauses (iv) to (vii) in the writ petition.

6. In the peculiar facts and circumstances of the present case, we are convinced that a case is made out by the applicant for restoration of the writ petition in order to consider prayer clauses (iv) to (vii).

7. Accordingly, the application is allowed.

8. Writ Petition No.773/2017 is restored.
9. Issue notice only to respondent Nos.1 to 3, returnable in **four weeks**.
10. Issuance of notice to respondent No. 4 is dispensed with, for the reason that the reliefs sought in prayer clauses (iv) to (vii) are relevant only insofar as respondent Nos.1 to 3 are concerned.
11. Mr. I.J.Damle, APP waives service of notice on behalf of respondent Nos.1 to 3.
12. List this writ petition for hearing in usual course.

[VALMIKI SA MENEZES, J.]

[MANISH PITALE, J.]