

RA-CW-232-2022 IN CM-17019-CWP-2018 & CWP-3937-2011

RAJBIR SINGH V/S STATE OF HARYANA & ORS

Present: Mr. Aditya Yadav, Advocate
for the applicant-petitioner.

RA-CW-232-2022 IN CM-17019-CWP-2018

This review application has been filed with a prayer for review of the order dated 03.02.2020 (Annexure P-4) passed by this Court vide which the application for restoration of the writ petition, which was dismissed for non-prosecution, was also dismissed.

As detailed, it has been stated that the writ petition, as was preferred by the applicant-petitioner, was listed along with CWP No. 15390 of 2002 before a Division Bench on 08.10.2018. Counsel for the applicant-petitioner could not appear before the Court when the case was taken up for hearing as he was busy in some other Court and by the time he reached the Court, the case has been dismissed for non-prosecution. An application dated 03.11.2018 was filed by the applicant-petitioner for restoration of the writ petition which was dismissed for non-prosecution on 08.10.2018. The said application was dismissed by this Court vide order dated 03.02.2020 on the ground that no detailed justification for non-appearance of the counsel for the applicant-petitioner was given nor did the counsel, who had been engaged subsequently, obtain the 'No Objection Certificate' from the previous counsel. It is this order dated 03.02.2020 passed by the Division Bench, which is being sought to be reviewed.

Along with the present application, affidavit of Sh. Chander Shekhar, Advocate, who was counsel for the applicant-petitioner on 08.10.2018 when the writ petition was dismissed for non-prosecution

because of his non-appearance, has filed an affidavit dated 15.07.2022 (Annexure A-5) detailing therein the reason as to why he could not appear before the Bench. The reason, as assigned, is that he was busy in Court Room No. 29. By the time he reached Court Room No. 1, where the writ petition was listed for hearing, orders had already been passed for dismissal of the writ petition for non-prosecution because of the non-appearance of the counsel.

Now along with the present application, 'No Objection Certificate', which has been obtained from Mr. Chander Shekhar, the counsel who had been initially appearing on behalf of the petitioner, has also been appended. Thus, the reason for passing of the order dated 03.02.2020 no more exists. Prayer has been made that in case the writ petition is not restored to its original number by accepting the prayer made in this review application, the applicant would suffer an irreparable loss especially when the other writ petitions, of which CWP No. 15390 of 2002 being the lead case is pending consideration before the Division Bench of this Court on **21.11.2022**.

Notice of the review application to the counsel for the State.

On the asking of the Court, Ms. Rajni Gupta, Addl. A.G. Haryana, accepts notice on behalf of the State and submits that the review application, as has been filed, may not be accepted.

However, keeping in view the reason assigned in the present application as detailed above and keeping in view the aspect that the main writ petition i.e. CWP No. 15390 of 2002 is now listed for hearing on 21.11.2022 along with which, the present writ petition was admitted initially and ordered to be heard and fixed for hearing, we accept the prayer made in

RA-CW-232-2022 IN CM-17019-CWP-2018 IN CWP-3937-2011 -3-

this application and recall the order dated 03.02.2020 (Annexure A-4) passed by this Court.

The writ petition is restored to its original number and the same is ordered to be listed along with CWP No. 15390 of 2002 on **21.11.2022**.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

November 18th, 2022
pj

**(ALKA SARIN)
JUDGE**