



2024:DHC:9295-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 510/2024

M S BHARAT HEAVY ELECTRICALS LTDAppellant

Through: Mr. Manish Malhotra, Adv.

versus

UNION OF INDIA & ANR.Respondents

Through: Ms. Pratima N. Lakra, CGSC with
Mr. Chandan Prajapati, Adv. for R-1.

Mr. A.K. Bajpai, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER (ORAL)

29.11.2024

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1. This LPA challenges the order dated 8 April 2024 passed by learned Single Judge of this Court, whereby the learned Single Judge has dismissed CM Appl 8983/2024 seeking restoration of WP (C) 2510/2015.

2. WP(C) 2510/2015 was dismissed for default on 18 January 2024. The impugned order notes that the counsel, in his restoration application pleaded that, on 18 January 2024, the applicant was held up in another Court where he was arguing the matter listed for disposal and that, when he reached the Court thereafter, he found that the matter had already been dismissed for non-prosecution. The learned Single Judge has not doubted the correctness of this assertion. However, the learned Single



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Judge has refused to restore the writ petition observing that on several earlier dates of hearing, the appellant has remained absent.

3. The Supreme Court, has, in *State Bank of India v Chandra Govindji*¹, dealt with similar situation and held that, where there is a reasonable explanation for the non-appearance of the counsel on the last date of hearing, earlier dates of non-appearance are irrelevant as, by adjourning the matter, the Court automatically condones the non-appearance of the counsel. The Supreme Court has clearly held that it is only the ground of non-appearance on the last date of hearing which has to be looked into.

4. Inasmuch as the ground for the appellant for not appearing before the learned Single Judge on 18 January 2024 was undoubtedly a valid reason, we are inclined to direct that the Writ Petition be restored. Accordingly, the impugned order dated 18 January 2024 is quashed and set aside. WP (C) 2510/2015 stands restored to the file of the learned Single Judge.

5. Let the writ petition be listed before the learned Single Judge on 10 December 2024. We record the undertaking of learned counsel for the appellant that on the said date of hearing, the appellant shall be present and shall not seek any adjournment on any ground whatsoever. Any adjournment sought would result in *ipso facto* vacation of the order passed today.



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6. The LPA stands allowed to the aforesaid extent.

C. HARI SHANKAR, J.

ANOOP KUMAR MENDIRATTA, J.

NOVEMBER 29, 2024/VLD

Click here to check corrigendum, if any