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

+ **W.P.(C) 21650/2005**

MOOLCHAND KHARAITI RAM HOSPITALPetitioner
Through: **Mr. M. Y. Khan, Adv.**

versus

GOVT. OF N.C.T OF DELHI & ANR.Respondents
Through: **Ms. Avni Singh, Panel Counsel**
with Mr. Rushikant, Adv. for R-1.
Mr. Fidel Sebastian and Mr. Rishi
Nandy, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
% **03.03.2025**

CM APPL. 42894/2024-For restoration of petition

1. By virtue of the present application, the petitioner seeks recall and setting aside of the order dated 14.05.2024 passed by this Court whereby the present petition has been dismissed for non-prosecution, as also restoration of the said petition to its original stage.
2. As per the learned counsel for petitioner, since the respondent had filed an application for early hearing in the present petition without serving the petitioner and it was heard *ex-parte* on 19.10.2023, the petitioner had no knowledge about the dismissal of the present petition on 14.05.2024. Thereafter, the petitioner came to know about the same upon being served with the application for gratuity by the respondent no.2 on 02.07.2024. Thus, the present application.



3. Issue notice.

4. Ms. Avni Singh, learned counsel for respondent no.1 and Mr. Fidel Sebastian, learned counsel for respondent no.2, accept notice respectively.

5. Learned counsel for the respondent no.2 submits that the petitioner cannot be allowed to take benefit of its own wrong, more so, since the impugned Award was passed way back on 03.12.2004. He submits that the present application is without merit as the petitioner is merely trying to buy time. He further submits that the petitioner is a habitual offender who has filed similar applications in various other writ petitions dismissed during the same time of the year when the impugned order dated 14.05.2024 herein was passed.

6. Viewing the circumstances cumulatively, particularly for the reasons stated in the present application, it would be in the interest of justice if the present application be allowed and the present petition is restored to its original stage, *albeit*, subject to a cost of Rs.5,000/- to be paid to the respondent no.2 within a period of two weeks.

7. The application stands disposed of.

CM APPL. 42895/2024-Stay

8. By virtue of the present application, the petitioner seeks stay on the recovery of gratuity amount and the back wages till the final disposal of the present petition.

9. Issue notice.

10. Ms. Avni Singh, learned counsel for respondent no.1 and Mr. Fidel Sebastian, learned counsel for respondent no.2, accept notice respectively.

11. Learned counsel appearing for respondent no.2 seeks, and is granted, four weeks to file reply. Rejoinder thereto, if any, be filed within



two weeks thereafter.

12. Renotify on 01.05.2025.

SAURABH BANERJEE, J

MARCH 3, 2025/bh