
(2011) 12 CHH CK 0035
In the Chhattisgarh High Court
Case No : MCC No. 855 of 2011

Shri B.N. Roy

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 14-12-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 1 MPHT 110

Hon'ble Judges : Satish K. Agnihotri, J;R.S. Sharma, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. By this petition, the applicant seeks restoration of W.P. No. 2543/2006 Shri B.N.Roy v. Union of India & Others which was dismissed for want of prosecution on 03.07.2006 (Annexure A/1).
2. There is a delay of about 1912 days in preferring this restoration application.
3. Shri Agrawal, learned senior counsel appearing with Smt. Jaiswal, Advocate for the applicant submits that the delay is bonafide as the counsel for the applicant could not intimate regarding the dismissal of the writ petition well in time. The counsel came to know regarding the dismissal of the writ petition on an enquiry being made by him on 17.10.2011. Thereafter, the petitioner applied for a certified copy of the order dated 03.07.2006 (Annexure A/1) on 17.10.2011 itself and the restoration application was filed before this Court on 02.11.2011.
4. The applicant has also filed I.A. No. 1, application for condonation of delay in filing the restoration application. The applicant has not offered any cogent reasons for condonation of delay in filing the restoration application. Thus, it appears that the applicant himself is not interested in pursuing his petition and after such a belated stage, prays for restoration of the writ petition, which was dismissed for want of prosecution.

5. A Division Bench of this Court, in *A. Srinivas Rao & Others v. Union of India & Others*, while deciding a similar issue, observed as under:

9. Law helps the diligent not indolent person" is often quoted and reiterated principle to highlight the rationale behind the law of limitation. There is no need for us to add cause law in that regard. Law reports contain abundant instances. Although it is said that a person who approaches Tribunal/Forum after the limitation prescribed by the statute has to explain each day's delay to the satisfaction of the Court or Tribunal, as the case may be, even practicing liberalism in the peculiar facts and circumstances of this case, we do not find any explanation much satisfactory explanation to constitute a 'sufficient cause' to condone the enormous delay of 4 year 3 months and 3 days..

6. The Supreme Court in *Shankara Cooperative Housing Society Limited v. M. Prabhakar and Others*, referring and considering *Lindsay Petroleum Co. v. Hurd*, *Moon Mills Ltd. v. Industrial Court*, *Maharashtra SRTC v. Balwant Regular Motor Service*, *Amrit Lal Berry v. CCE*, *State of Maharashtra v. Digambar*, *Shiv Dass v. Union of India*, *State of M.P. v. Nandlal Jaiswal* and *Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur*, held as under :

54. The relevant considerations, in determining whether delay or laches should be put against a person who approaches the writ court under Article 226 of the Constitution is now well settled. They are:

(1) There is no inviolable rule of law that whenever there is a delay, the Court must necessarily refuse to entertain the petition; it is a rule of practice based on sound and proper exercise of discretion, and each case must be dealt with on its own facts.

(2) The principle on which the Court refuses relief on the ground of laches or delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there is a reasonable explanation for the delay, because Court should not harm innocent parties if their rights had emerged by the delay on the part of the petitioners.

(3) The satisfactory way of explaining delay in making an application under Article 226 is for the petitioner to show that he had been seeking relief elsewhere in a manner provided by law. If he runs after a remedy not provided in the statute or the statutory rules, it is not desirable for the High Court to condone the delay. It is immaterial what the petitioner chooses to believe in regard to the remedy.

(4) No hard-and-fast rule, can be laid down in this regard. Every case shall have to be decided on its own facts.

(5) That representations would not be adequate explanation to take care of the delay.

7. The applicant herein has not offered any satisfactory explanation for such an

inordinate delay of 1912 days.

8. In view of the foregoing and for the reasons stated hereinabove, the application for condonation of delay is rejected. Consequently, the application for restoration of the writ petition also stands dismissed.