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HIGH COURT OF CHHATTISGARH AT BILASPUR

**D.B.: HON'BLE Mr. JUSTICE SUNIL KUMAR SINHA &
HON'BLE Mr. JUSTICE RADHE SHYAM SHARMA**

WRIT APPEAL NO.309/2011

APPELLANT

Minesh Tamrakar, S/o late
Ram Prasad Tamrakar, aged
about 41 years, R/o Ward
No.6, Village Gandai
Pandariya, Tahsil
Chhuikhadan, District
Rajnandgaon (Chhattisgarh)

Versus

RESPONDENTS

- 1 Hindustan Petroleum
Corporation Ltd. (A
Government of India
Enterprise) Through
Managing Director, Regd.
Office 17 Jamshedji Tata
Road, Mumbai 400 020
- 2 Hindustan Petroleum
Corporation Ltd. Through
Senior Regional Manager,
L.P.G. Bottling Plant, Mandir
Hasaud, Raipur
(Chhattisgarh) 492101
- 3 Union of India through the
Secretary, Petroleum
Department Sansad Bhavan,
Sansad Marg, New Delhi

**APPEAL UNDER SECTION 2 CLAUSE (1) OF THE
CHHATTISGARH HIGH COURT (APPEAL TO DIVISION
BENCH) ACT, 2006**

Appearance :

Mr. H.B. Agarwal, Senior Advocate with Mrs. Meera
Jaiswal, Counsel for the appellant.
Mrs. Fouzia Mirza, Assistant Solicitor General for
respondent No.3/Union of India.

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(30.06.2011)

The following order of the Court was passed by
Sunil Kumar Sinha, J.

Heard on I.A. No.01/2011, an application for condonation of delay in filing the appeal.

The appeal is barred by 196 days of limitation.

Mr. H.B. Agarwal, learned Senior Advocate appearing on behalf of the appellant, submits that since a Review Petition was filed against the first order dated 29.10.2010, the appeal could not be filed in time.

On due consideration of the submissions made by learned counsel for the parties and the grounds taken in the application filed for condonation of delay, the same is allowed and the delay in filing the appeal is hereby condoned.

Heard on admission.

It appears that an Advertisement dated 19.10.2009 (Annexure P/1 in the writ petition) was published for appointment of Dealers under Rajiv Gandhi Rural LPG Distribution Scheme. The appellant/petitioner made an application for grant of dealership at village Gandai, District Durg. The application of the appellant was rejected by order dated 23.08.2010 (Annexure P/19 in the writ petition). The appellant filed writ petition for quashing of the rejection order dated 23.08.2010. Subsequently, learned counsel appearing on behalf of respondents 1 & 2 submitted before the Writ Court that the Advertisement dated 19.10.2009, in which the application of the appellant was rejected, has been withdrawn. The Writ Court observing that nothing survives thereafter for adjudicating in the matter, as a fresh Advertisement has been issued and the appellant is at liberty to make a fresh application for the same, dismissed the writ petition vide order dated 29.10.2010, holding it to be infructuous.

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The appellant, thereafter, filed Review Petition No.38/2011. The Review Petition was also dismissed by the Writ Court vide order dated 13.06.2011, holding that in the facts and circumstances of the case, when earlier Advertisement was admittedly withdrawn, review of the order dated 29.10.2010 was not necessary. The Writ Court further observed that subsequent Advertisement was not challenged in W.P.(C) No. 5494/2010 and the facts, as stated in the order sought to be reviewed, are also not disputed.

Mr. Agarwal submits that even after withdrawal of the earlier Advertisement, the validity of rejection of the application of the appellant would have been examined by the Writ Court.

On due consideration of the entire facts and circumstances of the case, particularly the circumstance that the earlier Advertisement dated 19.10.2009 itself has been withdrawn, we do not find any force in the arguments of Mr. Agarwal.

For the foregoing reasons, there does not appear to be any infirmity in the above orders passed by the Writ Court.

The Writ Appeal, therefore, is liable to be dismissed and is hereby dismissed summarily.

Sd/-
Sunil Kumar Sinha
Judge

Sd/-
Radhe Shyam Sharma
Judge

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