

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

WRIT PETITION (M/B) NO. 149 OF 2023

04TH JULY, 2023

BETWEEN:

Santok Singh

.....Petitioner.

And

Government of India & others

....Respondents.

Counsel for the Petitioner	:	Ms. Shreya Chaudhary and Ms. Soniya Chawla, learned counsels.
Counsel for the Respondent No.1	:	Mr. V.K. Kaparuwan, learned Standing Counsel.
Counsel for the Respondent Nos.2 & 4 :		Mr. C.S. Rawat, learned Chief Standing Counsel, Mr. Amarendra Pratap Singh, learned Additional Advocate General assisted by Mr. Gajendra Tripathi, learned Brief Holder.

The Court made the following:

JUDGMENT:(per Hon'ble The Chief Justice Sri Vipin Sanghi)

The petitioner has preferred the present writ petition to seek a writ of *quo- warranto* directing respondent nos.1 to 4 to remove respondent no.6- Mr. Jagdish Chandra Kandpal from his services in the State of Uttarakhand, and to return him back to the State of Uttar Pradesh. Other consequential reliefs have been sought by the petitioner.

2. The premise on which this petition is founded is that the petitioner participated in response to an advertisement issued by the Uttar Pradesh Public Service Commission, in the year 1998, inviting applications to fill-up certain vacancies for the post of Naib Tehsildar.

3. Pertinently, the process for recruitment was initiated prior to bifurcation of the State of Uttar Pradesh and the carving out of the State of Uttarakhand on 09.11.2000.

4. The petitioner claims that the appointment was granted to respondent no.6 after the said bifurcation on 17.01.2001. According to the petitioner, since respondent no.6 was appointed by the State of Uttar Pradesh after bifurcation, he could only have served in the State of Uttar Pradesh, where he was appointed, and his subsequent allocation to the State of Uttarakhand was illegal.

5. As noticed hereinabove, the aforesaid developments took place between the period 1998 to 2001. This petition has been preferred in the year 2023, i.e. about 22 years later. It is, therefore, clearly barred by delay and laches, and we are, therefore, not inclined to entertain the same on that short ground.

6. Mr. Rawat, who appears on advance notice, has also drawn our attention to the judgment rendered by the Division Bench of this Court in Writ Petition (S/B) No.312 of 2013, dated 25.02.2014, "*Himalaya Singh Martoliya & others vs. Union of India & others*", in relation to the same issue.

7. In that petition, the present respondent no.6 was impleaded as respondent no.9, and the Division Bench, even

on that occasion, found that the petition challenging the allocation of respondent no.9 therein (respondent no.6 in this petition)- filed after the lapse of eight years, as delayed, with no explanation for the delay. The Division Bench, in that petition, *inter alia*, observed as follows:-

"So far as the relief no. 1, is concerned, after the lapse of period of eight years, no explanation has been given to explain the latches and delay in writ petition by the petitioner and in reply thereto the learned Senior Advocate has submitted that argument of petitioner's counsel is misconceived since, the selection of respondent no.9 was made of in the year 1998, that was stayed by the Central Government because of Reorganization of both the State and guidelines have also been issued which were issued in exercise of power 86 of the Reorganization Act, 2000. "All the recruitments against vacancies in the interim i.e. till issue of the final allocation orders may be kept in abeyance. Wherever panels have been drawn but not published, they may be kept in abeyance till reorganization of states is given effect to. Wherever panels have been recently published, selected candidates may be notified that their services in the existing State of Bihar / Madhya Pradesh / Uttar Pradesh may not be required beyond the 'Appointed Day' and they are liable to serve in the Successor State of Jharkhand / Chhattisgarh / Uttaranchal after Reorganization, as the case may be." Respondent no.9 has option of service in both the States, therefore, we are not inclined to entertain the writ petition on the ground of delay and latches and the matter is sub judice before the Hon'ble Apex Court.

The writ petition lacks merits and is hereby dismissed at threshold."

8. We are, therefore, of the view that there is absolutely no merit in this petition. This petition is clearly a gross abuse of the process of this Court, and the same is

accordingly dismissed with costs quantified to Rs.25,000/-, to be deposited with the Uttarakhand State Legal Services Authority within two weeks.

9. Pending application, if any, also stands disposed of.

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 04th July, 2023

NISHANT