Court No. - 20

Case :- WRIT - A No. - 7813 of 2023

Petitioner :- Ms. Tanuja Srivastava, Then Inspector General Of Police, (Personnel), U.P. Lucknow
Respondent :- Sri Amitabh Thakur, I.P.S. Gomti Nagar Lucknow And Another
Counsel for Petitioner :- C.S.C.
Counsel for Respondent :- Shikhar Anand

Hon'ble Manish Mathur,J.

1. Heard learned Standing Counsel on behalf of petitioner and Mr. Samar Bahadur Yadav, learned Counsel holding brief on behalf of Mr. Shikhar Anand, learned counsel appearing on behalf of opposite party no.2.

2. In view of order being proposed to be passed, notices to opposite party no.1 stand dispensed with.

3. Petition has been filed challenging order dated 28.05.2013 passed by the State Information Commission as well as order dated 16.12.2016 passed rejecting recall application.

4. On the aspect of laches in filing petition, it has been stated in the memorandum of petition that against order dated 28.05.2013, recall application was filed on 24.06.2013 regarding imposition of fine. The said application was rejected vide order dated 16.12.2016 whereafter approval was granted on 29.06.2017 by Additional Director General of Police, Human Rights U.P. for filing of writ petition. Letter dated 15.11.2017 was thereafter sent to the Government for filing of petition and such permission was granted by the Law Department on 02.02.2018 whereafter learned Chief Standing Counsel was contacted on 27.03.2018 and allotment of learned State Counsel was also made on 17.09.2022 whereafter present petition has been filed.

5. From a perusal of grounds indicated in the memorandum of petition itself severe laches are clearly made out from the submissions made therein without any cogent explanation for the same. Once the appropriate authority being the Law Department already granted permission on 02.02.2018, it does not stand to reason as to why the petition has thereafter been filed in the year 2023 without any explanation for such laches of five years thereafter.

6. Hon'ble the Supreme Court in the case of State of ***Madhya***

Pradesh & Ors. versus Bherulal reported in ***(2020)10 Supreme Court Cases 654*** pertaining to laches in filing of petitions by State has already held as follows:

"5. A preposterous proposition is sought to be propounded that if there is some merit in the case, the period of delay is to be given a go-by. If a case is good on merits, it will succeed in any case. It is really a bar of limitation which can even shut out good cases. This does not, of course, take away the jurisdiction of the Court in an appropriate case to condone the delay.

6. We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as "certificate cases". The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation."

7. Upon applicability of aforesaid judgment in the present facts and circumstances of the present case, clearly no indulgence is required to be granted to State for challenging an order in the year 2023 which has been passed in the year 2016.

8. Considering the aforesaid facts, writ petition is not found to be entertainable and is therefore **dismissed at the admission stage itself**. Parties to bear their own costs.

Order Date :- 10.10.2023
Subodh/-

Digitally signed by :-
SUBODH KUMAR SINGH
High Court of Judicature at Allahabad,
Lucknow Bench