

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2767 of 2015**

- Chandan Prasad Banjara S/o Bala Ram Banjara Aged About 54 years At Present Working At Higher Secondary School, Kunda, Block Pandariya, District Kawardha Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, New Raipur Chhattisgarh
2. Secretary, State of Chhattisgarh School Education Department, Mantralaya, Mahanadi Bhawan, New Raipur Chhattisgarh
3. Director, Directorate Public Education Raipur Chhattisgarh
4. District Education Officer Kabirdham, District Kawardha Chhattisgarh
5. K.C. Kabara S/o Jai Narayan Kabara (Ex. District Education Officer) At Present Posted As Deputy Director, Mahanadi Bhawan, Mantralaya, New Raipur District Raipur Chhattisgarh
6. G.S. Makkad S/o Harmendra Singh Makkad In - Charge Principal Govt. Higher Secondary School, Lundra, District Kabirdham Chhattisgarh

---- Respondents

For Petitioner	:	Ms. Hamida Siddiqui, Advocate
For Respondent-State	:	Shri YS Thakur, Dy. AG for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****04/08/2015**

1. Petitioner has prayed for allowing him to remain officiating Principal of Government Higher Secondary School, Kunda, district Kabirdham or in the alternative to direct fresh consideration on the issue concerning the officiating charge of principal of the said school.

2. It appears, the petitioner was officiating as principal of the said school, wherein a surprise inspection was made by the District Education Officer, Kabirdham (for short 'the DEO') on 23-6-2012, in which it was found that the petitioner was leisuring in the staff club and was not getting cooked the mid day meal. Based on this inspection as also previous complaints against him, the DEO passed an order on 25-6-2012 handing over charge of the officiating principal to respondent No.6.
3. It is argued that the petitioner has duly replied to the observations made by the DEO and thereafter several representations have been filed, yet no action has been taken for handing over the charge to the petitioner or to consider the issue afresh. Learned counsel would place reliance on the order passed by this Court in **Ramkumar Chandra Vs. State of Chhattisgarh and others** {WP(S) No.6851/2009}.
4. Petitioner has not assailed the legality and validity of the order Annexure P-2 dated 25-6-2012, but has prayed for issuance of writ of mandamus. As long as the order Annexure P-2 stands and is not set aside, a writ of mandamus contrary to the order cannot be issued. Even otherwise, the petitioner was not holding the charge of the principal in regular capacity. He was only officiating in the post, therefore, he has no right to hold the post. True it is that the State Government has issued circulars providing that ordinarily a junior officer shall not be handed over charge of the office if senior officer is available, however, in the case at hand there appears eminent administrative exigency for handing over the officiating charge to respondent No.6.
5. Petitioner has also argued that respondent No.6 is the relative of respondent No.5, however, in none of the representation the said fact has been

mentioned. It is for the first time in this writ petition this fact is disclosed. There is no material as to what kind of relationship respondent No.5 has with respondent No.6. In view of the insufficient particulars and precise allegations, the issue cannot be examined in a roving manner.

6. Moreover, order Annexure P-2 was issued in June, 2012. More than three years have elapsed thereafter. Since the petitioner has no right to hold the post, the delay in preferring the writ petition assumes greater significance.

7. The Supreme Court in **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**¹, after relying on its decision rendered in **State of M.P. v. Nandlal Jaiswal**², held thus at para 15 & 16 :

"15.

	xxx	xxx	xxx
	xxx	xxx	xxx
	xxx	xxx	xxx

“24. ... If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction.”

Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not

1 (2014) 4 SCC 108

2 (1986) 4 SCC 566

be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.”

8. Accordingly, there is no substance in the writ petition, it fails and is hereby dismissed on merits as also for delay and laches.

Sd/-

Judge

Prashant Kumar Mishra

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