

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2893 of 2015

- Abdul Salim S/o Late Abdul Gaffar Aged About 47 years R/o Post Non Birra, Via Bhaisma, Block Kartala, Police Station Kartala, Tahsil Kartala District Korba Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat & Rural Development, New Mantralyaa, Mahandi Bhawan, Raipur Chhattisgarh
2. The Director Panchayat & Social Welfare Chhattisgarh Raipur Distt. Raipur Chhattisgarh
3. The District Education Officer Korba, District Korba Chhattisgarh
4. The Chief Executive Officer Janpad Panchayat Kartala, District Korba Chhattisgarh

---- Respondent

For Petitioner	Shri Vikrant Pillai, Advocate on behalf of Shri Amit Kumar Sharma
For Respondent/State	Shri Sangharsh Pandey, Dy. GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

10/08/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner has preferred this writ petition seeking direction to the respondents to grant re-appointment on the post of Assistant Teacher (Panchayat).

3. The prayer has been made on the ground that vide order dated 26.02.1995 passed by the Chief Executive Officer, Janpad Panchayat Kartala, the petitioner was appointed as Shiksha Karmi for remainder of the session i.e. till April 2015, however, the petitioner has not been reappointed although, others have been given such benefit.
4. Except the above order, where the petitioner has worked for a period of about 2 months, the petitioner has not submitted any other document as to what happened to his services after April, 1995. But for making bald statement that the petitioner kept on making representations, there is absolutely no whisper as to why the petitioner did not approach the Court for last about 20 years. The petitioner has not laid any foundation to demonstrate any arbitrary exercise of power by the authorities.
5. The writ petition suffers from delay and laches. The Supreme Court in the matter of **Chennai Metropolitan Water Supply and Sewerage Board and others v. T.T. Murali Babu**¹ has held thus:-

“15. In *State of M.P. v. Nandlal Jaiswal* the Court observed that: (SCC p. 594, para 24)

“24. ... it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic.”

It has been further stated therein that: (*Nandlal Jaiswal case*, SCC p. 594, para 24)

“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.

¹ (2014) 4 SCC 108

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 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.”

6. In the matter of **A.P. SRTC v. G. Srinivas Reddy**² and in the matter of **Union of India v. Ashok Kumar Aggarwal**, it has been held that direction to decide representation is issued by the Writ Court in exercise of its power of judicial review. To exercise such a right, the petitioner has to demonstrate existence of legally and enforceable right and the corresponding statutory obligation on the authorities to decide his representation.
7. It is held thus, in the matter of **Union of India v. Ashok Kumar Aggarwal**³:-

“18. A representation may be considered by the competent authority if it is so provided under the statutory provisions and the court should not pass an order directing any authority to decide the representation for the reason that many a time, unwarranted or time-barred claims are sought to be entertained before the authority. More so, once a representation has been decided, the question of making second representation on a similar issue is not allowed as it may also involve the issue of limitation, etc. (Vide *Rabindranath Bose v. Union of India*, *ESI Corpn. v. All India*

2 (2006) 3 SCC 674

3 (2013) 16 SCC 147

ITDC Employees' Union, A.P. SRTC v. G. Srinivas Reddy, Karnataka Power Corpn. Ltd. v. K. Thangappan, Eastern Coalfields Ltd. v. Dugal Kumar and Udai Shankar Awasthi v. State of U.P.)"

8. For the foregoing, the writ petition is dismissed on the ground of delay and laches.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala