

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2947 of 2015

1. Shravan Kumar Yadav S/o Late Badri Prasad Yadav, Aged About 48 Years Village- Kekti, Post- Rajpur, Takhatpur, Thana- Takhatpur District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home Mahanadi Bhawan New Mantralaya, Raipur District Raipur (Chhattisgarh)
2. Director General, Home Guard & Director Civil Defence Raipur, District-Raipur (Chhattisgarh)
3. District Commandant, Nagar Sena, Bilaspur (Chhattisgarh)

---- Respondent

For Petitioner	Shri Vinod Deshmukh, Advocate
For Respondent/State	Shri Arvind Dubey, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/08/2015

Heard learned counsel for the parties.

1. Petitioner was appointed as Home Guard and served on honorarium till 7-4-2006 when his re-enrollment was refused by the District Commandant, Home Guards, Bilaspur.

2. Learned counsel for the petitioner would submit that the petitioner was found absent from duty during Panchayat election in the year 2004-05, therefore, he was suspended on 22-1-2005 and this is the reason for refusal of his re-enrollment, however, the same is illegal because the petitioner has not been visited with penalty nor any departmental enquiry was ever constituted against him.
3. Petitioner has not pointed out any statutory provision conferring right on a Home Guard to seek re-enrollment. Order dated 7-4-2006 nowhere indicates that refusal of re-enrollment is on account of his previous suspension. Similarly, nothing has been pointed out as to what are the procedure or parameters for re-enrollment of a Sainik appointed in the establishment of Home Guard.
4. In absence of any such statutory provision or applicable guidelines, the petitioner has not made out any case for interference. Moreover, the order was passed on 7-4-2006 and the writ petition has been filed on 10-8-2015.
5. The writ petition suffers from delay and laches. The Supreme Court in **Chennai Metropolitan Water Supply and Sewerage Board and others v. T.T. Murali Babu**¹ has held thus:-

1 (2014) 4 SCC 108

“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.

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. As a result, the writ petition is liable to be and is hereby dismissed.

No order as to costs.

Sd/-

Judge

Prashant Kumar Mishra

Gowri