

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 294 of 2015**

Rakesh Kumar Mishra S/o Shri Ram Lakhan Mishra, aged about 38 years working as Shiksha Karmi Grade- III, Govt. Primary School Kotadol, Block Bharatpur, Distt. Korea (Chhattisgarh) R/O Village & Post Janakpur, near Tahsil Lal Bangla, Distt. Korea (Chhattisgarh).

---- Appellant

Versus

1. State of Chhattisgarh through Secretary, Panchayat & Rural Development Department, Mantralaya, Mahanadi Bhawan, New Raipur (Chhattisgarh)
2. Collector, Korea Distt. Korea (Chhattisgarh)
3. Deputy Director of Education, Korea Distt. Korea (Chhattisgarh)
4. Janpad Panchayat Bharatpur (Janakpur) through its Chief Executive Officer, Janpad Panchayat, Korea Distt. Korea (Chhattisgarh)
5. Assistant Commissioner, Tribal Development Korea Distt. Korea (Chhattisgarh)

--- Respondents

For Appellant	:	Shri H.B. Agrawal, Senior Advocate with Shri K.S. Pawar, Advocate.
For Respondent/ State	:	Shri U.N.S. Deo, Government Advocate.

**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.**

Order On Board**Per NAVIN SINHA, C.J.****14/5/2015**

1. The present appeal arises from order dated 10.4.2015 dismissing Writ Petition (S) No. 1248 of 2015. The Learned Single Judge held that

the Petitioner was appointed as a Shiksha Karmi Grade-III for one academic session in 1996. Thereafter, he was not continuing in service. The writ petition filed 17 years later making an order of Madhya Pradesh High Court dated 26.3.1998 in Writ Petition No. 459 of 1998 as a cause of action was highly belated.

2. Learned Senior Counsel for the Appellant submitted that the Appellant was a party in Writ Petition No. 459 of 1998 before the Madhya Pradesh High Court. Pursuant to a representation filed before the Assistant Commissioner, Tribal Welfare Department, Korea in September 2012, directions have been issued to the Chief Executive Officer, Janpad Panchayat, Bharatpur, District Korea, to take necessary action on the same expeditiously notwithstanding which the Chief Executive Officer was taking no decision.

3. Learned Counsel for the State submitted that the order under appeal calls for no interference.

4. In our opinion, the Learned Single Judge has rightly held that the cause of action sought to be founded on an order dated 26.3.1998 passed by the Madhya Pradesh High Court in Writ Petition No. 459 of 1998, by filing a representation in 2014 followed by a writ petition in the year 2015 was highly belated and stale. After the appointment of the Appellant ended in 1996, the post held by him obviously would not have remained vacant and must have been filled up by another. Third party rights have therefore accrued. The Appellant seeks to resurrect a cause of action which stood extinguished 17 years ago affecting another who is now in service.

5. The Learned Single Judge has adequately discussed that the discretionary writ jurisdiction will not be exercised in favour of those who

are not vigilant for protection of their own rights. Having obtained an order on 26.3.1998 as the Appellant perceives, it is for him to ponder why he choose to sleep over it for 17 long years. He has only himself to blame.

6. We find no merit in the writ appeal. It is dismissed.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE