

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2198 of 2014

- Smt. Arti Mishra W/o Rajendra Mishra Aged About 43 Years R/o Behind Sheetla Mandir Mahavirpara, Dongargarh, P.S. Dongargarh, Distt. Rajnandgaon C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through its Secretary, Department of School Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur C.G.
2. The Director, Directorate, Public Instructions, Raipur District Raipur C.G.
3. The Director, Directorate, Public Instructions, Bhopal, District Bhopal M.P.
4. Dr. Pragya Thethwar R/o Bangalipara, Naya Sarkanda, Bilaspur Distt. Bilaspur C.G.

P.S. Sarkanda

5. Ms. Kumud Sahu R/o Village Kollar, Block Abhanpur, Distt. Raipur C.G.

P.S. Abhanpur,

---- Respondent

For Petitioner	Mr. Mateen Siddique, Advocate
For Respondent /State	Mr. Vinod Deshmukh, Dy. G.A.

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

3/5/2016

1. Heard.
2. The petitioner would pray for quashment of the order dated 08.07.1999 issued by the Commissioner, Department of Public

Instructions, State of Madhya Pradesh, in respect of the post of Lecturer (Bakery and Confectionery) and for a direction to consider her candidature for the said post.

3. In the selection process for recruitment of Lecturer, Food & Vegetable Preservation, Bakery & Confectionery and Horticulture, the petitioner along with respondents 4 & 5 appeared in the year 1999. At the end of the selection process, amongst other candidates, respondents 4 & 5 were appointed as Lecturer (Bakery & Confectionery) vide order dated 08.07.1999.
4. It is the stand of the petitioner that she had secured more marks in the selection process than respondents 4 & 5, therefore, she should have been selected.
5. To challenge the appointment of respondents 4 & 5 made in the year 1999, this writ petition has been preferred on 28.04.2014 i.e. after about 15 years. On previous date of hearing, learned counsel for the petitioner was heard on the issue of delay and laches and was directed to supply the copy of the order passed by the Madhya Pradesh High Court in WP No.7264 of 2002 (Hari Shankar Shukla Vs. State of M.P. and others. The copy of the said common order passed in W.P. No.7264 of 2002 and other connected petitions has been submitted before this Court. It would appear that the said order was passed by the Division Bench of Madhya Pradesh High Court on 17.07.2007.
6. It is put-forth by learned counsel for the petitioner, explaining the delay and laches, that acting on the said order passed by the

Division Bench of the Madhya Pradesh High Court, the State of Madhya Pradesh granted benefit of such order to other candidates, who had not even preferred the writ petition, by issuing an order on 25.08.2008, which came to the knowledge of the petitioner in the year 2013. Thereafter, the petitioner immediately moved an application under the Right to Information Act and after having been supplied the document, this writ petition has been filed, therefore, there is no delay on the part of the petitioner.

7. Perusal of the papers annexed to the writ petition would make it clear like noon day that the order of appointment, pursuant to the selection process in which the petitioner also participated, was issued on 08.07.1999. The petitioner did not feel aggrieved in the year 1999 or soon thereafter, therefore, she neither preferred any writ petition nor kept track of the issue in the pending writ petition before the Madhya Pradesh High Court.
8. Had it been the case where the petitioner was aware of pendency of the writ petition in the Madhya Pradesh High Court, she would have filed the present writ petition immediately after the order was passed by the Madhya Pradesh High Court in the case of Hari Shankar Shukla (supra).
9. As per the petitioner's own showing, she became aware about the order passed by the Madhya Pradesh High Court in Hari Shankar Shukla (supra) and the consequential order passed by the State of Madhya Pradesh on 25.08.2008 in the year 2013, which led to filing of RTI application.

10. The case of the petitioner in re delay and laches is even worse than a fence sitter because such person would keep track of the pending litigation and moves before the Court immediately after favourable decision in favour of similarly placed candidates. In the case at hand, the petitioner was not at all aware of any petition filed by Hari Shankar Shukla (Supra) before the Madhya Pradesh High Court.

11. 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 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,

1 (2014) 4 SCC 108
2 (1986) 4 SCC 566

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."

12. Applying the above ratio to the facts of the present case, this petition filed after about 15 years from the date of accrual of cause of action, hopelessly suffers from delay and laches, which has not been satisfactorily explained by the petitioner.

13. For the foregoing, the writ petition deserves to be and is hereby dismissed.

Sd/-

Judge
(Prashant Kumar Mishra)

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