

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No.429 of 2016**

Ajay Kumar Rajwade S/o Ram Dilip Rajwade, Aged About 24 Years
R/o Kalkalo Post Karji, Tahsil Ambikapur, P.S. Darima, District Surguja
Ambikapur Chhattisgarh

---- Appellant

1. State Of Chhattisgarh Through The Secretary, Water Resouces Department Mahanadi Bhawan, Mantralaya, New Raipur Chhattisgarh
2. Chief Engineer, Hasdev Ganga Kachchhar, Water Resource Department, Ambikapur, District Surguja (Chhattisgarh)
3. Engineer In Chief, Water Resource Department, Sihawa Bhawan, Raipur, District Raipur (Chhattisgarh)
4. Commissioner, Surguja Division, District Surguja (Chhattisgarh)
5. Superintending Engineer, Shyam Barnai, Project Division, Ambikapur, District Surguja (Chhattisgarh)
6. The Collector, Ambikapur, District Surguja (Chhattisgarh)
7. Executive Engineer, Water Resource Division No. 1 Ambikapur, District Surguja (Chhattisgarh)
8. Vivek Tamrakar S/o Bhagirati Tamrakar, Aged About 25 Years R/o Infront Of New Nagar Nigam Office, Kedarpur School, Ambikapur, District Surguja

-----Respondents

For Appellant:	Shri Pushpendra Kumar Patel, Advocate.
For Respondent/State:	Shri YS Thakur, Additional Advocate General.
For Respondent No.8:	Shri Sunil Tripathi, Advocate.

Hon'ble The Chief Justice**Hon'ble Shri Justice Sanjay Agrawal****Order on Board****Per Deepak Gupta, Chief Justice****1/12/2016**

1. This Writ Appeal is directed against the judgment dated 25.7.2016 whereby the Writ Petition has been dismissed on the ground that it is hit by

the principles of delay and laches.

2. This case shows certain startling facts. The Appellant herein – Ajay Kumar Rajwade had earlier filed W.P(S) No.489/2015 in which, his main allegation was that he had obtained higher marks than Respondent No.8 therein – Rajesh Kumar Rajwade and therefore, the appointment order dated 3.11.2014 issued in favour of BK Rajwade was illegal and liable to be set aside. In this Writ Petition, the Appellant herein – Ajay Kumar Rajwade was represented by Shri Pushpendra Kumar Patel, Advocate. The case was listed for hearing on 18.8.2015, when twelve weeks' time was granted to file return. Thereafter, the matter was listed on 17.11.2015 and it was admitted for hearing. It was further ordered that the appointment, if any, shall be subject to the final outcome of the Writ Petition.

3. After this order was passed on 17.11.2015, on 13.4.2016, Appellant – Ajay Kumar Rajwade filed a fresh Writ Petition being W.P.(S) No.1593/2016. In this Petition, the Petitioner again challenged the appointment order dated 3.11.2014 on the same grounds and the relief claimed was virtually identical. This Petition was also filed through Shri Pushpendra Kumar Patel, Advocate signed by him and in paragraph-6 of the Petition, it was stated as follows:-

“6. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT OF LAW:-

That, the petitioner has not filed any matter with regard to the instant petition before this Hon'ble Court or any other court of law.”

In this Petition, it was also alleged that the Petition was belated, the Petitioner was not aware of the order dated 3.11.2014 and therefore there was delay. He also alleged that he obtained the order under the provisions of Right to Information Act despite the fact that the order has already been annexed with the earlier Writ Petition. Since this Petition was filed about 1 ½

years after the order dated 3.11.2014 had been passed, the Petition was dismissed by the learned Single Judge in *limine*. Later, the present Appeal was filed and notices were issued. Now return has been filed and the fact of filing of previous Petition i.e. W.P.(S) No.489/2015 has been brought on record. On comparison of these two Writ Petitions, we are constrained to observe that totally false claims have been made in the second Petition, which are within the knowledge of Shri Pushpendra Kumar Patel, Advocate who signed the second Writ Petition. The two glaring errors are that firstly in the second Writ Petition, it was stated that no Writ Petition has been filed earlier and secondly, it was stated that the Petitioner was not aware of the order, though in fact the order had been annexed with the earlier Writ Petition.

4. Members of Bar are as much as the Officers of the Court as Presiding Officers. They may fight for their clients but they have a duty to be honest and assist the Court properly. In this case, we are constrained to observe that Shri Pushpendra Kumar Patel, Advocate has filed the second Writ Petition and probably must have charged the fees also from his client and not made any averment with regard to his first Writ Petition nor has he stated a word with regard to the orders passed in the first Writ Petition. It is more than obvious that having failed to obtain an order in his favour in the first Writ Petition, the second Writ Petition was filed to obtain some interim order. No party can be permitted to indulge in such a wrong practice or to get away with the behavior of this type. We would have referred the matter to the Bar Council but since Shri Pushpendra Kumar Patel, Advocate has submitted unconditional apology, we refrain from doing so. However, while dismissing the Petition, we impose costs of Rs.5,000/- on Shri Pushpendra Kumar Patel, Advocate which shall be deposited with the High Court Legal Services Committee within four weeks from today. We also direct that he shall not

recover these costs from his client.

5. With the aforesaid directions, we dispose of the instant Writ Appeal.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE