

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.8100 of 2015 (O&M)
Date of decision: 03.11.2016

Chander Bhan

... Petitioner

Vs.

State of Haryana & ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE NARAIN RAINA

Present: Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. AG, Haryana.

Mr. D.K.Khanna, Advocate
for respondent No.4.

None for respondents No.5 & 6.

Mr. Sunil K. Nehra, Advocate
for the applicant.

RAJIV NARAIN RAINA, J.(ORAL)

This petition deserves to be dismissed on the ground of delay and laches. The delay is because the advertisement was published on 08.11.2012 while the petitioner filed the present petition on 21.04.2015 seeking a mandamus to the Haryana Staff Selection Commission, Panchkula to entertain and consider the application of the petitioner for the post of Primary Teacher, which means that the petitioner was not an applicant and therefore, was not in competition with others. He has thus no demonstrable *locus standi* to enter upon the selection process seeking a direction to the

respondent to entertain his application long after the date for submission of forms has expired and the recruitment process come to a stand still becoming a dead ball.

The petition has to be dismissed on the ground of laches as well because there is no explanation to in the petition to justify belated approach to legal redress after lapse of long time. The petitioner has being grossly negligent in seeking his legal remedies within reasonable time and therefore, on grounds of both delay and laches this petition deserves to be dismissed in limine.

There is no reason why the petition should not be dismissed on the ground of bar of limitation as well since a suit, if brought on the same cause of action, would be barred by time and the right to sue beyond three years stands extinguished. Accordingly, this petition should be rejected and the writ court will not entertain the petition in view of the law laid down by the Constitution Bench of the Supreme Court in State of Madhya Pradesh v Bhailal Bhai, AIR 1964 SC 1006. Besides in matter of selection and appointment, delay is always fatal as third party rights have settled in the competitive world of job seekers. There may have been others, who may have entered the selection process after securing interim orders and were provisionally interviewed. In their case LPA No.686 of 2016 is pending before this Court but which has no bearing on the prayers made in this petition.

The petitioner may acquaint himself with the law laid down by the Supreme Court in State of U.P.& Ors v. Arvind Kumar Srivastava &

Ors, (2015) 1 SCC 347 where the principle of intervention in writ proceedings based on principles of parity have been elucidated. The case of the petitioner falls in the exception to the general rule carved out in Paragraph 23 (2) of the judgment and would be taken as a fence-sitter and delay and laches would be a valid ground to dismiss the petition. The principle is based on 'similarly situated' doctrine when previous judgment secured by the vigilant is relied on to obtain similar relief which was not decreed in rem:- The Supreme Court observed in *Arvind Kumar Srivastava* (supra) as follows:-

“However, this principle is subject to well recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

That apart, there is sufficient weight of judicial opinion of the Supreme Court and the High Courts including this Court that unexplained delay and laches ordinarily disentitles person to relief by long lapse of time which judgments require no inclusion in this order, the point being settled.

For these reasons, this petition is liable to be dismissed.

Ordered accordingly.

(RAJIV NARAIN RAINA)
JUDGE

03.11.2016
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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | Yes |