

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 156 of 2017**

Santosh Kumar Sahu S/o Shri Thakur Ram Sahu Aged About 40 Years [Date Of Birth 30-07-1974] R/o In- Front Of Nagesh Bhawan, Ward No. 08, Nagar Panchayat Kasdol, Post-Police Station-Tahsil Kasdol, District [Civil And Revenue] Baloda Bazar Bhatapara, [Chhattisgarh] PIN 493335

---- Appellant**Versus**

1. State of Chhattisgarh Through, The Secretary, Urban Administration Department, Mantralaya Mahanadi, Bhawan Raipur, Chhattisgarh
2. The Commissioner, Urban Administration Deployment Department, Secretariat, Raipur, Chhattisgarh
3. The Joint Director, Urban Administration Deployment Department, Secretariat, Raipur, Chhattisgarh
4. Mukhya Nagar Palika Adhikari, Nagar Panchayat, Tahsil Kasdol, District Balodabazar-Bhatapara, Chhattisgarh
5. Mehetaru Ram Sahu S/o Inderman Ram Sahu Aged About 48 Years [Date Of Birth 01/04/1965] Selected Candidate Of The Post Of Assistant Grade III, R/o Near The House Of Dukhram Sahu, Sirpur Road, Kasdol, Post- Kasdol, Police Station And Tahsil Kasdol, District [Civil And Revenue] Baloda Bazar Bhatapara, Chhattisgarh

---- Respondents

For Appellant	: Shri Vijay K. Deshmukh, Advocate.
For Respondent/State	: Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri P. Sam Koshy, Judge.

Judgment on Board**Per Thottathil B. Radhakrishnan, Chief Justice****28/04/2017**

1. This appeal with an application seeking condonation of delay of more than three years in its institution is against the judgment by which the learned Single Judge refused to interfere with the order of appointment of the 5th Respondent who has been selected and appointed in the post of AG-III in the office of a Nagar Panchayat.
2. We have heard the learned counsel for the Appellant and the learned Deputy Advocate General.

3. While the Appellant may be justified in saying that he, having been a candidate in the selection concerned, had the necessary *locus standi* to institute the writ petition challenging the selection and appointment of a rival candidate, the fact of the matter remains that he moved the learned Single Judge six years after the 5th Respondent was appointed. On this issue, the learned Single Judge has specifically made reference to the decisions of the Apex Court in *New Delhi Municipal Council v. Pan Singh* {(2007) 9 SCC 278} and *S.S.Balu v. State of Kerala* {AIR (2009) SC 1994} to hold that the discretionary jurisdiction would not be exercised in cases where the exercise of such equitable jurisdiction would be against the facts situation which have finalised by themselves, with the passage of time. Delay and laches in the case in hand has been treated by the learned Single Judge as inordinate. We do not see any legal infirmity or jurisdictional error in the decision of the learned Single Judge, in having taken the case of the Appellant as one where the writ petition was filed with inordinate delay when admittedly it was instituted more than six years after the appointment of the 5th Respondent. The aforesaid position notwithstanding, we are also unable to countenance the plea raised by the Appellant that the delay of more than three years in the institution of this writ appeal is to be condoned on the specious ground that the Appellant had been hunting for documentary evidence in support of his case. We see no sufficient cause in terms of Section 5 of the Limitation Act to condone the delay in filing this appeal.

4. For the aforesaid reasons, the application seeking condonation of delay and the writ appeal are dismissed in limine.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE