

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.1061 of 2017**

Anil Lakda S/o Julius Lakda, Aged About 44 Years R/o Village Barabel,
Tehsil Mainpat, Distt Surguja (Chhattisgarh).

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Secretary, Urban Administration And Development Department, Mahanadi Bhawan, New Raipur, (Chhattisgarh)
2. Chief Municipal Officer, Municipal Corporation, Ambikapur, Distt. Surguja, (Chhattisgarh)
3. Selection Committee, Through President, Municipal Corporation, Ambikapur, Distt Surguja, (Chhattisgarh)
4. Parmeshwar Singh Paikra, S/o Amgasiya Singh, R/o Village Kewra, Post And Tehsil Lakhanpur, Distt Surguja, (Chhattisgarh)
5. Kailash Kumar, S/o Shambhuran, R/o Village Kudaridih, Kamleshwarpur, Mainpat Surguja, District Surguja, (Chhattisgarh)
6. Ilyas Minj, S/o Nakul, R/o Sadhbar (Haritikra), P.O. Mitthikala, Tehsil Ambikapur, Distt Surguja, (Chhattisgarh).

---- **Respondents**

For Petitioner	:	Shri Rakesh Pandey and Shri Abhishek Pandey, Advocates.
For respondent/State	:	Shri SP Kale, Deputy Advocate General.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****03/03/2017**

1. The present petition has been preferred challenging the order dated 16.08.2013 passed by the Selection Committee, Municipal Corporation, Ambikapur, where the name of the petitioner was reflected in the list of ineligible candidates (Annexure P/1) along with other candidates who were declared unfit for the selection process. The reason for declaring them unfit was on account of over age.
2. This court is inclined to dismiss the petition only on the ground of delay

and laches for the reason that the candidature of petitioner was rejected in the month of August, 2013 and the petitioner has filed this petition on 16.02.2017 i.e. after a period of more than 3 and ½ years. From the pleadings of the petitioner itself it is reflected that recruitment process have been completed and order of appointment have also been issued in favour of the private respondents. The petitioner did not raise any objection with regard to rejection of his candidature before the department and has filed this petition only after issuance of appointment order in favour of the private respondent. At this stage, after about 3 and ½ years and also after issuance of order of appointment, this court does not find it proper to re-look into the entire selection process which has already been completed and finalized long back.

3. The question of delay and laches came to be considered very recently by the Supreme Court in case of **State of Uttarakhand and Another v. Shiv Charan Singh Bhandari and Others**¹ in which the court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of court with inordinate delay, and held as under :

"In State of T.N. v. Seshachalam[8], this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

4. Likewise, in case of **Uttarakhand Forest Development Corpn. And**

¹ 2013 (12) SCC 179

another vs. Jabar Singh and others², it was observed as under:

“43. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches.”

5. Further, in the case of ***New Delhi Municipal Council v. Pan Singh and others***³, the Supreme Court reiterating the principles relating to interference in cases where petitioner approached the Court with unexplained delay as below:

“16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See *Govt. of W.B. v. Tarun K. Roy*, *U.P. Jal Nigam v. Jaswant Singh* and *Karnataka Power Corpn. Ltd. v. K. Thangappan*.)”

6. In the case of ***P. S. Sadasivaswamy vs. State of Tamil Nadu***⁴, it has been held as under:-

“It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner’s petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering

²(2007) 2 SCC 112

³(2007) 9 SCC 278

⁴(1975) 1 SCC 152

legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal."

7. In the case of **Bhoop Singh v. Union of India**⁵, it was held as under:

"8. There is another aspect of the matter. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed."

8. Very recently in case of **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**⁶, the Supreme Court has clearly held that delay may have impact on others' ripened rights and may unnecessarily drag others into litigation, and expressed their opinion as under-

"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 scrutinize 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, 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.

In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such

⁵(1992) 3 SCC 136

⁶2014 (4) SCC 108

enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

9. Bearing in mind the principles of law laid down by the Supreme Court in above referred cases with regard to entertainment of petition filed with inordinate delay and laches if the facts of present case are examined, it would appear that the petitioner has filed this petition in the month of February, 2017 claiming his candidatures whereas, cause of action arose in August, 2013, and as such there is delay of more than 3 and ½ years in filing the petition and the petitioner has neither explained such delay nor has filed any document to substantiate the same. Further, meanwhile order of appointment has also been issued in favour of the private respondents.
10. As a fall out and the consequence of the aforesaid discussion, the petition is held to be devoid of merit and is therefore dismissed.

Sd/-
(P. Sam Koshy)
Judge