

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE  
AND  
The Hon'ble Mr.JUSTICE M.SUNDAR

W.P. No.26445 of 2017

P.Pugalenth

.. Petitioner

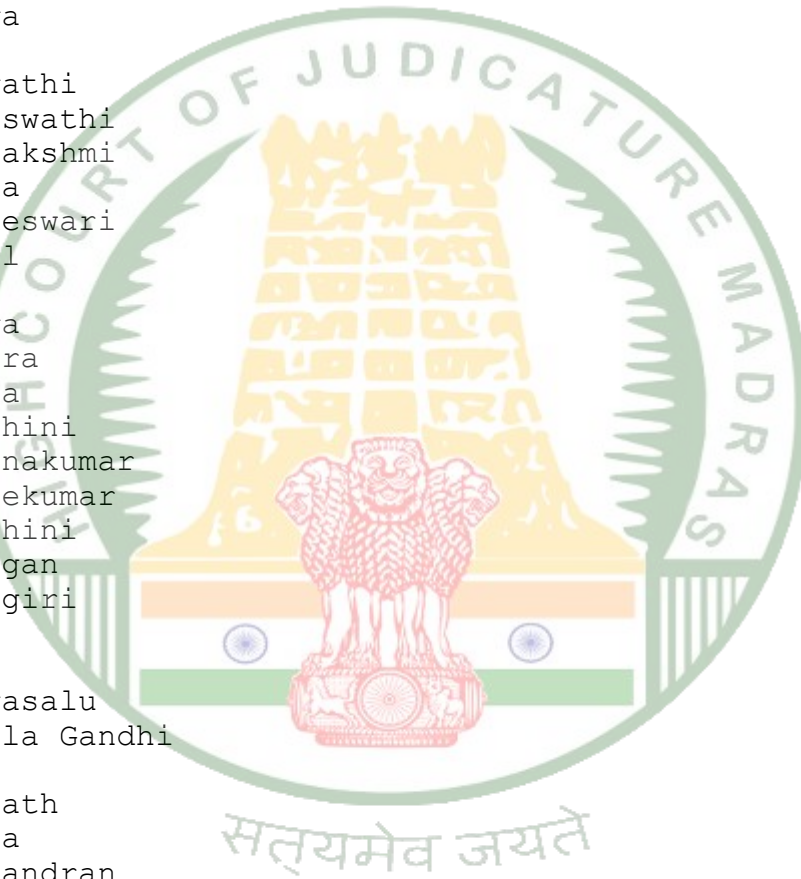
Vs.

1.High Court of Judicature at Madras,  
represented by the Registrar General,  
High Court of Madras,  
Chennai-600 104.

- 2.C.Karthikeyan
- 3.D.Brindhavanam
- 4.G.Madhu Sudhana Reddy
- 5.P.C.Annapoorani
- 6.V.Rajameenakshi
- 7.M.Jeyamani
- 8.R.Arunraja
- 9.M.Mohanasundaram
- 10.G.Meena
- 11.S.Eswari
- 12.V.Bama
- 13.K.Vanitha
- 14.K.Somasundarm
- 15.J.Vasanthi
- 16.P.Kannagi
- 17.V.Venkatasubramanian
- 18.K.Gopinath
- 19.S.Nagamuthu
- 20.G.Laxmi
- 21.P.Shakila
- 22.B.Damodaran
- 23.Lakshmi Nunna
- 24.S.Rajasekar
- 25.I.Jebakani
- 26.V.Satheesh
- 27.A.Mohan
- 28.K.Mahalakshmi
- 29.I.Sylvia Punitha Kumari
- 30.S.Jothilakshmi
- 31.S.Vijayalakshmi
- 32.C.Karthika-I
- 33.Syedahumera
- 34.T.Ravikumar

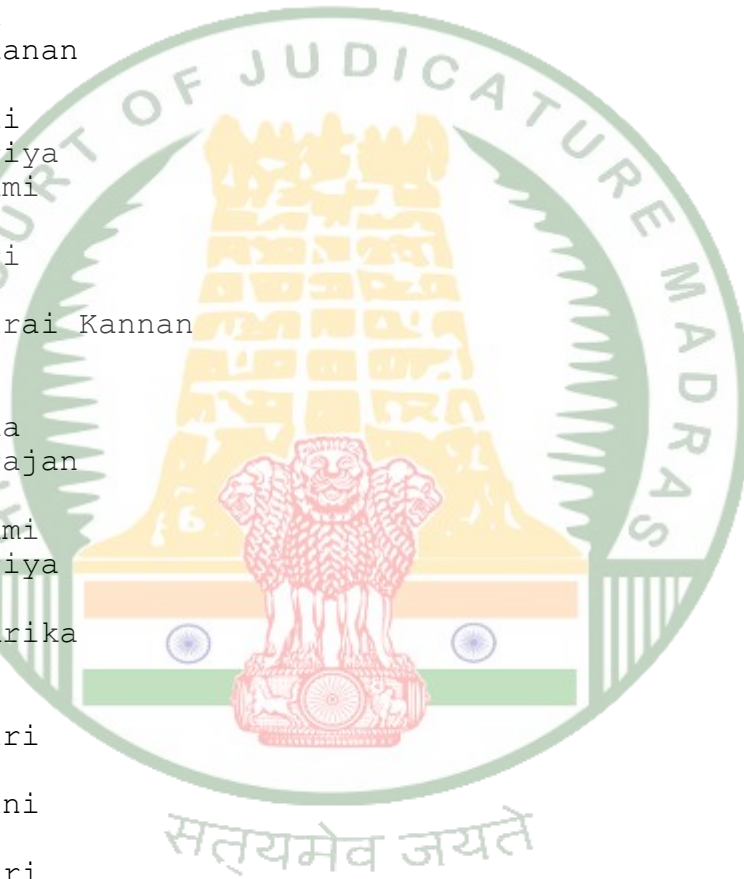
- 35.P.Veerachinnammal
- 36.M.S.Kajal Beevi
- 37.S.Meenakchi Sundaram
- 38.R.M.Visuwanathan
- 39.S.Prabha Devi
- 40.M.Suresh Venkatesan
- 41.S.Somasundaram
- 42.R.Anuradha
- 43.K.Thanga Thandapani
- 44.B.Poornima
- 45.R.Nallasamy
- 46.S.Jagan
- 47.L.Saravana Kannan
- 48.M.Thangapriya
- 49.G.Venkatesh Babu
- 50.K.Robin Rajkumar
- 51.A.Ravikumar
- 52.V.Rajaguru
- 53.K.Kalyani
- 54.S.Revvathi-II
- 55.S.Raja
- 56.J.Jeyakanthan
- 57.V.G.Vazhaiyanandam
- 58.V.Sarath Chander
- 59.N.Umadevi
- 60.G.Shiela
- 61.R.Kavitha
- 62.A.Amco Kalaima Arasi
- 63.N.Rangaraj
- 64.T.Naga Sanjeeva Rao
- 65.S.Sumathi-I
- 66.Anurekha Jayasankar
- 67.R.Srinivasan
- 68.J.Prabhu
- 69.J.Sheela Raichel
- 70.K.Veeralakshmi
- 71.G.Srinivasan
- 72.N.Srinivasan
- 73.S.Prema
- 74.S.Rajkumar-I
- 75.V.Paramaguru
- 76.C.Selvam
- 77.N.Saravanamuthu
- 78.S.Savarimuthu
- 79.S.Saraswathi
- 80.A.Ganapthy
- 81.S.Sumathi-II
- 82.K.Rajesh
- 83.D.Balasubramaniam
- 84.S.Dhanasekar
- 85.P.Ranganayaki
- 86.N.PAri
- 87.K.Kamala
- 88.N.Kalavathi

- 89.R.Paramasivam
- 90.M.Kubendran
- 91.R.Vijayakumar-I
- 92.H.John Kennedy
- 93.G.Guruvammal
- 94.Theivvarayan @ Murugan.M
- 95.N.Achuthan
- 96.S.Gurunathan
- 97.K.Premkumar
- 98.D.Nirmala
- 99.N.Arumugam
- 100.D.Karpagam
- 101.K.Sukanya
- 102.L.Chitra
- 103.C.Saraswathi
- 104.M.A.Saraswathi
- 105.G.Sudhalakshmi
- 106.A.Kavitha
- 107.M.Umamaheswari
- 108.John Paul
- 109.J.Nalini
- 110.M.S.Priya
- 111.P.Chandira
- 112.R.Kavitha
- 113.T.Subhashini
- 114.G.Saravanakumar
- 115.A.Kishorekumar
- 116.C.Subhashini
- 117.S.Anbalagan
- 118.S.Dasthagiri
- 119.K.Vani
- 120.S.Balu
- 121.G.Srinivasalu
- 122.A.R.Kamala Gandhi
- 123.S.Jhansi
- 124.B.Gokulnath
- 125.V.Shakila
- 126.R.Ravichandran
- 127.A.Kamalakannan
- 128.S.Manjula
- 129.D.Santhanakrishnan
- 130.S.Senthilnathan
- 131.A.Abdul Khader
- 132.S.Rajarajeswari
- 133.S.Santh
- 134.S.Yuvarajamoorthi
- 135.R.Renukalakshmi
- 136.R.Vadivel
- 137.G.Surender
- 138.S.Umaiya
- 139.D.Chakrapani
- 140.G.Hema
- 141.S.M.Mohammed Miya Khan
- 142.K.Selvarani



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143.S.M.Vasugi  
144.S.Karpagam  
145.S.Karpagam  
146.K.Subbulakshmi  
147.R.Sudharasana  
148.S.Duraivel  
149.V.Janhakiraman  
150.R.Vimalarani  
151.R.S.Sivaram  
152.A.M.Kaja Mohideen  
153.P.Anbu  
154.P.Ramalakshmi  
155.S.Sulochana  
156.N.Madhusuthanan  
157.S.B.Rajini  
158.G.Geetharani  
159.K.Kavithapriya  
160.V.Mahalakshmi  
161.P.Meenakshi  
162.K.Mareeswari  
163.S.Rajeswari  
164.R.Chendhamarai Kannan  
165.S.Balu  
166.G.Velmeena  
167.A.Premalatha  
168.G.Soundararajan  
169.P.Shanthi  
170.D.Mahalakshmi  
171.B.Krishnapriya  
172.M.Savitha  
173.K.Uma Chandrika  
174.T.Palanivel  
175.M.Devan  
176.R.Parameswari  
177.V.Sujatha  
178.T.E.Subramani  
179.V.Chitra  
180.N.Gunasundari  
181.S.Rajendiran  
182.S.Ganapathy Subramanian  
183.T.Bagavathy  
184.V.Jarin Santhosh  
185.S.Ashok Kumar  
186.A.Moovendran  
187.P.Jansi Rani  
188.V.Mani  
189.J.Vasanthi  
190.S.Shanmugamani  
191.V.M.Jeyasudha  
192.L.Padmapriya  
193.K.Pushpalatha  
194.S.Rajeswari  
195.N.Santhi  
196.K.A.Kaja Mohideen



197.B.Maragatham  
198.K.Sujitha  
199.T.Premavathy  
200.R.Parveen Banu  
201.N.Abdul Rahim  
202.S.Baskaran  
203.S.Saravanan-II  
204.S.Krishnaa  
205.K.Devi  
206.G.Balamurugan  
207.R.Saravanan  
208.A.Badhroon Sulaiha  
209.N.Vinoth Kumar  
210.J.Archana  
211.P.Vetri Selvi  
212.E.Varatharajan  
213.K.V.Dimple  
214.V.Raghupathiraja  
215.S.Kalidass  
216.P.Suja  
217.V.Muthukumar  
218.V.Sajeev Kumar  
219.T.Nagaraj  
220.D.Aron Devanbu  
221.M.Manoharan  
222.K.Arumugachander  
223.S.Selvam  
224.S.V.Srithar  
225.M.B.Rani Chandra  
226.G.Ananda Ramakrishnan  
227.N.Valavan  
228.B.T.Adhishesan  
229.M.Pushpanathan  
230.M.Tirupathi  
231.S.Sethuraman  
232.S.Subbiah-III  
233.M.Sivakumar  
234.P.Shanmugaraj  
235.M.Rathinavel  
236.V.Rajalakshmi  
237.S.Amsath Ibrahim  
238.N.Giri  
239.B.L.Palanivelu  
240.B.Sathish Kumar  
241.T.Radhika  
242.G.Kalai Chelvi  
243.K.Jayakrishnan  
244.N.Rajesh Kannan  
245.R.Alagiriswamy  
246.J.Ghouse Basha  
247.R.Banumathi  
248.J.Suresh  
249.P.Devasenapathy  
250.R.Durgavathi



251.N.Thenarasu  
252.P.Balaji  
253.S.K.Hameed  
254.K.S.Lakshmi Narayanan  
255.C.Rajasekar  
256.D.Anandan-II  
257.P.Ramalingam  
258.A.Alagappan  
259.S.Bhuvaneswari  
260.S.Kasinathan  
261.D.Gopinath  
262.M.Sundaresan  
263.K.Bharathi Raja  
264.D.Mullai Vasuki  
265.S.Karthick  
266.E.Ponnurangam  
267.R.Revathi  
268.M.Sumathi  
269.S.Venkatesh  
270.V.Chandravathana  
271.A.Arivalakan  
272.S.Karthikeyan-I  
273.M.Paramasivam  
274.S.Kattacheeniyammal  
275.S.Malathi Devi  
276.R.Immaculate Francisca Sharmi  
277.N.G.Murugan  
278.S.Vasudevan  
279.A.Mareeswaran  
280.M.Marimuthu-I  
281.K.G.Shanmugasundaram  
282.S.Sundar Ganesh  
283.R.Sundareswara Perumal  
284.P.Muneeswaran  
285.D.Daniel Raj  
286.B.Ravindra Babu  
287.K.Sheela  
288.M.P.Arthanareeswaran  
289.J.Agnus Camlin Anusha  
290.M.Selvam  
291.M.Rajiv Gandhi  
292.I.Kalirajan  
293.G.Sakthivel  
294.K.Sivakumar  
295.K.Krishna Mohan  
296.D.Prabbhu  
297.V.Alex  
298.R.Guruvu  
299.A.Anand  
300.R.Thavamani Kiruba  
301.R.Devavaram  
302.N.Rajesh Kumar  
303.R.Sitharathi  
304.S.Umanaheswari

305.T.Daniel Dhas  
306.T.Suresh  
307.S.Breeta Punitha Rosline  
308.A.Sikkandhar Basha  
309.J.Mahalakshmi  
310.C.Mahalingam  
311.C.Alfred Marshall  
312.S.Jothipandian  
313.S.Sudharsan  
314.V.Ramathan-I  
315.P.Amarnath

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration declaring that the initial appointments of respondents 2 to 315 in respondent No.1 High Court are null and void and consequently directing respondent No.1 High Court to issue a public advertisement for the resultant vacancies in accordance with the law laid down by the Supreme Court in Excise Supdt. Malkapatnam Vs. K.B.N.Visveshwara Rao [(1996) 6 SCC 216].

For Petitioner : Mr.M.Radhakrishnan

For Respondents: Mr.B.Vijay for R-1

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This writ petition by way of Public Interest Litigation has been filed by a public spirited Advocate, seeking a writ of declaration that the initial appointments of respondent Nos.2 to 315 in this High Court are null and void and consequential direction on the High Court to issue a public advertisement for filling up the resultant vacancies in accordance with law.

2. We have given our anxious thought to whether the writ petition should be taken up by a Bench presided by the Chief Justice. The counsel submitted that they have no objection to this Bench taking up the writ petition. In any case, we have to invoke the doctrine of necessity as the writ petition is against the High Court and the High Court means the Chief Justice and all His companion Judges. Moreover, the writ petition pertains to recruitments, some of which took place even before either of us was elevated as High Court Judge and all the recruitments in question were made when neither of us was Judge of this Court. The appointments impugned in this writ petition were not cleared by this Chief Justice, and this Chief Justice had nothing to do with the same.

3. It seems that the challenge to the appointments is on the sole ground that no public advertisements had been issued, the posts were not given publicity and persons who could have

applied could not do so as they had no knowledge of the recruitment. However, there does not appear to have been any challenge to the recruitments by any person claiming to have been denied opportunity to participate in the recruitment process.

4. Be that as it may, the question is whether we should interfere with appointments which were made by the High Court, 12 to 15 years ago. The persons appointed have all been confirmed in service. They have been rendering service for years and some of them have even been promoted to higher posts.

5. It is true that there is no limitation for filing a writ petition and the High Court is not debarred from entertaining a delayed writ petition. However, the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India is discretionary. It is well settled that High Courts should refrain from exercising discretionary jurisdiction in case of delay and laches, particularly where such delay and laches have given rise to accrual of rights.

6. There is no hard and fast rule as to when the High Court should refuse to exercise jurisdiction in favour of a party who moves the writ petition after considerable delay and is otherwise guilty of laches, but such discretion must be exercised judiciously and reasonably, as held by the Supreme Court in *Tukaram Kana Joshi & Ors. v. Maharashtra Industrial Development Corporation & Ors.*, reported in (2013) 1 SCC 353.

7. Whether the Court would entertain a writ petition, notwithstanding the delay, or reject the writ application on the ground of delay, would depend upon various factors, including the gravity of the impugned action, the extent of the injury caused to the writ petitioner by the impugned action, the reasons for the delay, whether the delay has resulted in crystallization of third party rights and interests, whether any vested right has accrued to the respondent by reason of delay and whether grant of relief will upset and/or unsettle settled things.

8. In *State of Maharashtra v. Digambar*, reported in (1995) 4 SCC 683, the Supreme Court held:-

"19. Power of the High Court to be exercised under Article 226 of the Constitution, if is discretionary, its exercise must be judicious and reasonable, admits of no controversy. It is for that reason, a person's entitlement for relief from a High Court under Article 226 of the Constitution, be it against the State or anybody else, even if is founded on the allegation of infringement of his legal right, has to necessarily depend upon unblameworthy conduct of



the person seeking relief, and the court refuses to grant the discretionary relief to such person in exercise of such power, when he approaches it with unclean hands or blameworthy conduct.

20. Laches or undue delay, the blameworthy conduct of a person in approaching a court of equity in England for obtaining discretionary relief which disentitled him for grant of such relief was explained succinctly by Sir Barnes Peacock, long ago, in *Lindsay Petroleum Co. v. Hurd* thus:

"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation, in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute or limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy."

.....

23. Therefore, where a High Court in exercise of its power vested under Article 226 of the Constitution issues a direction, order or writ for granting relief to a person including a citizen without considering his disentitlement for such relief due to his blame-worthy conduct of undue delay or laches in claiming the same, such a direction, order or writ becomes unsustainable as that not made judiciously and reasonably in exercise of its sound judicial discretion, but as that made arbitrarily."

9. In *Swaika Properties (P) Ltd. and Anr. v. State of Rajasthan and Ors.*, reported in (2008) 4 SCC 695, the Supreme court rejected the contention of the writ petitioners that there had been no delay, having regard to the particular facts of the case observing.

"14. ....No doubt, the appellants had filed a writ petition before the Calcutta High Court challenging the acquisition proceedings, but the said writ petition was dismissed by this Court on 8-4-1985 holding that the Calcutta High Court did not have the territorial jurisdiction to entertain the writ petition. Thereafter, till 1987 the appellants did not challenge the acquisition proceedings and the writ petition was filed by it before the Rajasthan High Court which had the territorial jurisdiction in the matter and the same was withdrawn which was again filed within the next four months thereof meaning thereby, during the interregnum the appellants slept over the matter. However, the appellants have not been able to give any explanation for the same."

10. In *Swaika Properties (P) Ltd. and Anr. v. State of Rajasthan and Ors.* (supra), the Supreme Court reiterated and reaffirmed the proposition laid down in its earlier judgment in *Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. (P) Ltd.*, reported in (1996) 11 SCC 501, that where there was inordinate delay in filing the writ petition, and when all steps taken in the acquisition proceedings had become final, the Court should be loath to quash the notifications.

11. In *Municipal Council, Ahmednagar and Anr. v. Shah Hyder Beig and Ors.*, reported in (2000) 2 SCC 48, the Supreme Court held:

"....It is now a well-settled principle of law and we need not dilate on this score to the effect that while no period of limitation is fixed but in the normal course of events, the period, the party is required for filing a civil proceeding ought to be the guiding factor. While it is true that this extraordinary jurisdiction is available to mitigate the sufferings of the people in general but it is not out of place to mention that this extraordinary jurisdiction, has been conferred on to the law courts under Article 226 of the Constitution on a very sound equitable principle, Hence, the equitable doctrine, namely, 'delay defeats equity' has its fullest application in the matter of grant of relief under Article 226 of the Constitution. The discretionary relief can be had provided one has not by his act or conduct given a go-bye to his

rights. Equity favours a vigilant rather than an indolent litigant and this being the basic tenet of law, the question of grant of an order as has been passed in the matter as regards restoration of possession upon cancellation of the notification does not and cannot arise. The High Court as a matter of fact lost sight of the fact that since the year 1952, the land was specifically reserved for public purposes of school playground and roads in the development plan and may reason therefore, the notification to acquire the land has, therefore, been issued under the provisions of the Act as stated above."

12. In *Kamini Kumar Das Chowdhury v. State of West Bengal*, reported in AIR 1972 SC 2060 : (1972) 2 SCC 420, the Supreme Court held that "it is imperative, if the petitioner wants to invoke extraordinary remedy available under Article 226 of the Constitution, that he should come to the Court at the reasonable possible opportunity."

13. In *R.N. Bose v. Union of India*, reported in AIR 1970 SC 470, the Supreme Court observed that it would be unjust to deprive the respondents of the rights which are accrued to them. Appointment and promotion effected a long time ago could not be set aside after the lapse of a number of years.

14. In *Roshanlal v. International Airport Authority*, reported in AIR 1981 SC 597, the Supreme Court refused to entertain writ petition filed in 1978 challenging the validity of the appointment made in 1975 and reopen the question.

15. In this case, there is not a whisper in the writ petition of the reason for the delay in filing the writ petition. The writ petitioner, an advocate by profession, claims to have filed this writ petition in public interest. He has stated that he filed the writ petition immediately after he came to know that the appointments in question had been made illegally without issuance of public notices and/or advertisements, thereby eliminating competition from eligible candidates who may have applied if they had known about the recruitment.

16. Over the last several decades, a new class of litigations, namely, public interest litigations, have emerged. The object of public interest litigation is to make justice available to the public.

17. In pro bono publico proceedings, the Courts intervene when the attention of the Courts is drawn to illegality either by any overt action or by any inaction on the part of the State. Pro bono public interest litigation gives way to substantive concern for deprivation of rights. The rule of locus standi has been diluted.



18. In a public interest litigation, the Court is not simply a disinterested and dispassionate adjudicator, but an active participant in the dispensation of justice. The key facts in public interest litigation are deprivation of rights – the need to secure the rights of a deprived class. However, in entertaining and deciding a public interest litigation under Article 226 of the Constitution of India, the Courts have to adhere to the limits of its extraordinary power of review as formulated by judicial decisions. Just because the writ petition before the High Court is by way of a public interest litigation, it is not open to the High Court to give complete go-bye to the principles for entertaining writ applications enumerated by judicial decisions of the Supreme Court and the High Courts, including restraint in case of existence of an alternative remedy, except in certain exempted circumstances such as violation of fundamental rights, violation of principles of natural justice, perversity, want of jurisdiction and the like.

19. Similarly, a Court cannot ignore gross delay of decades and entertain a writ petition just because the writ petition is by way of a public interest litigation and the petitioner contends that he did not know of the illegality earlier.

20. Our attention has been drawn by learned counsel appearing on behalf of the High Court to a judgment of the Supreme Court in *Girjesh Shrivastava and others Vs. State of Madhya Pradesh and others*, reported in (2010) 10 SCC 707 and *Dr.B.Singh Vs. Union of India and others*, reported in (2004) 3 SCC 363.

21. In *Dr.B.Singh supra*, the Supreme Court observed and held :

"16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations, whereas only a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts at times are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra* [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : AIR 1999 SC 114] this Court held that in service matters PILs should not be entertained, the inflow of the so-called



PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. This tendency is being slowly permitted to percolate for setting in motion criminal law jurisdiction, often unjustifiably just for gaining publicity and giving adverse publicity to their opponents. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out whether it was a bona fide venture. Whenever such frivolous pleas are taken to explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs, as it prima facie gives impression about oblique motives involved, and in most cases shows proxy litigation. Where the petitioner has not even a remote link with the issues involved, it becomes imperative for the court to lift the veil and uncover the real purpose of the petition and the real person behind it. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts."

22. In *Girjesh Shrivastava* supra, the Supreme Court observed :

"15. In *Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra* [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802] a three-Judge Bench of this Court held that a PIL is not maintainable in service matters. This Court, speaking through Srinivasan, J. explained the purpose of administrative tribunals created under Article 323-A in the backdrop of extraordinary jurisdiction of the High Courts under Articles 226 and 227. This Court held: (SCC p. 281, para 18)

"18. ... If public interest litigations at the instance of strangers are allowed to be entertained by the [Administrative] Tribunal, the very object of speedy

disposal of service matters would get defeated."

Same reasoning applies here as a public interest litigation has been filed when the entire dispute relates to selection and appointment.

16. In *B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn.* [(2006) 11 SCC 731 (2) : (2007) 1 SCC (L&S) 548 (2)] this Court held that in service matters only the non-appointees can assail the legality of the appointment procedure (see SCC p. 755, para 51 of the Report).

17. This view was very strongly expressed by this Court in *Dattaraj Nathuji Thaware v. State of Maharashtra* [(2005) 1 SCC 590] by pointing out that despite the decision in *Duryodhan Sahu* [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802], PILs in service matters "continue unabated". This Court opined that the High Courts should "throw out" such petitions in view of the decision in *Duryodhan Sahu* [(1998) 7 SCC 273 : 1998 SCC (L&S) 1802] (SCC p. 596, para 16)."

23. It is not necessary for this Court to go into the question of whether this writ petition should have been entertained as Public Interest Litigation or not in view of our observation made above that the writ petition is hopelessly barred by delay. It is true that the petitioner has made an averment that he came to know of the illegality only recently and filed the litigation immediately thereafter. We need not go into the correctness of the submission. If the petitioner, an Advocate propounding the cause of the public, had been more vigilant, he could have obtained the information whether by enquiries or by making an application under the Right to Information Act, 2005. The petitioner is purportedly espousing the cause of the people and the injustice caused to them by reason of their being denied opportunity to apply for the post. We cannot be oblivious to the injustice that would be caused to hundreds of employees who would be thrown out of employment for no fault of their own after having rendered service for so many years.

24. Learned counsel appearing on behalf of the petitioner had cited the judgment of the Supreme Court in *Binod Kumar Gupta and others Vs. Ram Ashray Mahoto and others*, reported in AIR 2005 SC 2103, where the Supreme Court observed "if we allow the appellants to continue in service merely because they have been working in the posts for the last 15 years, we would be guilty of condoning a gross irregularity in

their initial appointment. The High Court has been more than generous in allowing the appellants to participate in any fresh selection procedure as may be held and in granting a relaxation of the age limit."

25. The judgment is not an authority for the proposition that whenever there is illegality, a writ petition must be entertained irrespective of whether there has been delay of over a decade in approaching the Court. On the other hand, a perusal of the facts reveal that the writ petition had been filed promptly, but a considerable period of time had elapsed till the matter ultimately came to the Supreme Court.

26. The writ petition cannot be entertained. It is, however, expected that in future, the High Court will issue public advertisements for direct recruitment to all permanent sanctioned posts in the High Court.

27. The writ petition is dismissed. No costs.

Sd/-  
Assistant Registrar(II)

//True Copy//

Sub Assistant Registrar

vvk/sasi

To  
The Registrar General,  
High Court of Judicature at Madras,  
High Court of Madras,  
Chennai-600 104.

+1cc to Mr.Radhakrishnan, Advocate Sr.No.74044

W.P.No.26445 of 2017

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