

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (L) NO. 10 OF 2018

1. Krishi Upaj Mandi Samity, through Secretary, Bhatapara, District Balodabazar-Bhatapara (C.G.)
2. CG Agriculture Marketing Board, through Managing Director, Beej Bhawan, Ravigram, Telibandha, Raipur (C.G.) (wrongly mentioned as-District Balodabazar-Bhatapara) (C.G.)

... Petitioners

versus

Subhash Chandra Tiwari, aged 34 years, S/o Maheshprasad Tiwari, R/o Shubhash Ward, Bhatapara, District Balodabazar-Bhatapara (C.G.)

... Respondent

For Petitioners : Mr. Y.S. Thakur, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/01/2018

1. The present writ petition has been filed by the Petitioners assailing the award dated 11.12.2014 passed by the Labour Court, Balodabazar, in Case No. 06/I.D.Act/Ref./2013 (Old Case No. 39/I.D.Act/Ref./2012).
2. Vide the impugned award, the learned Labour Court has passed an award in favour of the Respondent granting him reinstatement without back-wages.
3. Challenge in the present writ petition is to the award dated 11.12.2014 and the present writ petition was filed on 15.1.2018, which clearly shows that there is an inordinate unexplained delay of more than 3 years. It is a settled position of law that the access to the power of judicial review under Article 226 of the Constitution of India should be availed within a reasonable period of time.
4. In the instant case, the award passed is a bipartite award and as such it cannot be argued by the Petitioners that they were not aware of an award having been passed against them.

5. The question pertaining to delay and laches has already been decided by the Hon'ble Supreme Court in a catena of decisions in **P. S. Sadasivaswamy v. State of Tamil Nadu**¹, **Uttaranchal Forest Development Corpn. & Another v. Jabar Singh & Others**², **New Delhi Municipal Council v. Pan Singh and others**³ and **State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others**⁴. In all these cases, it has been held that "it is trite law 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.

6. In case of **Bhoop Singh v. Union of India**⁵, the Hon'ble Supreme Court has again held as under:

"8. ...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..."

7. The Hon'ble Supreme Court further in the case of **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**⁶, has made the following observations:

"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

1 1975 (1) SCC 152

2 2007 (2) SCC 112

3 2007 (9) SCC 278

4 2013 (12) SCC 179

5 1992 (3) SCC 136

6 2014 (4) SCC 108

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."

8. A similar view has also been taken earlier by this Bench in the case of **Smt. Leena Lucas v. State of C.G. & Another**⁷ decided on 1.10.2015 in W.P.(S) No. 6316 of 2010.

9. Given the facts and circumstances of the case and the aforesaid legal position, the present petition suffers from delay and laches and the same thus is liable to be and is accordingly dismissed only on the ground of delay.

10. The writ petition stands dismissed accordingly.

Sd/-
(P. Sam Koshy)
Judge

/sharad/

⁷ 2016 (1) C.G.L.J. 137