

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.878 of 2018
Date of Decision :09.08.2018

Mohit Angurala

.....Appellant

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present : Ms. Alka Chatrath, Advocate for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (Oral):

This is an *intra court* appeal under clause-X of the letters patent filed by the appellant/petitioner challenging the order dated 12.12.2017, passed by the learned Single Judge dismissing the writ petition as barred by the delay and laches.

Facts, undisputed, can be summarized as under:

In pursuance to the advertisement issued on 03.12.2011, by the Punjab Information and Communication Technology Education Society (for short 'PICTES'), the appellant-petitioner was also an applicant for recruitment to one of the post of computer faculty on contractual basis. As per the reservation policy 70 posts were reserved for SC (R & O) Category. Petitioner belongs to reserve category. After the selection process was undertaken, petitioner secured 37.75 marks, and thus, did not fall within the

zone of consideration in the first counselling. The appellant-petitioner participated in the second counselling, conducted on 11.03.2013, however, the other candidates who secured 37.75 marks were issued appointment letters for that they were older in age to the appellant-petitioner.

Thereafter, the appellant-petitioner sought information under the provisions of the Right to Information Act as regards the number of candidates who did not join under the SC (R&O) category despite being selected and he was supplied the information on 15.11.2013, that 7 posts under the reserved category were lying vacant. He made a representation dated 15.04.2014, and thereafter, remained quiet only to wake up in the year 2017, to file a Civil Writ Petition No.9167 of 2017, which ultimately he withdrew on 6.9.2017. Thereafter, a legal notice was sent by the petitioner to the respondent on 15.09.2017, but as there was no response, the petition out of which the present appeal arises was filed.

Learned Single Judge finding that there was no justification to approach this Court after an inordinate delay of 4 years, even though the cause of action had accrued to the appellant-petitioner on 15.11.2013 itself, when he was given reply to his queries made under Right to Information Act, and thus, he was guilty of laches and accordingly dismissed the writ petition.

Learned counsel for the appellant-petitioner vehemently submitted that in case of an identical candidate a writ petition is pending and since the matter had not been adjudicated the dismissal of the writ petition filed by the appellant-petitioner cannot be said to be justified. We

are afraid the argument advanced by learned counsel for the appellant seeking parity with the other candidates is impermissible in view of the fact that the said candidate was vigilant about his rights and approached this Court by filing CWP No. 16168 of 2014, without any delay. It is an altogether a different matter that the writ petition filed by him for some reason remained pending and is not yet adjudicated. The appellant-petitioner cannot claim parity with the said candidate who was vigilant enough to approach this Court well within time and the appellant-petitioner slept over his right to wake up after about 4 years. Learned Single Judge has rightly pointed out that the appellant-petitioner is a fence sitter. Further, a candidate who had participated in the selection process cannot have the liberty and luxury of choosing the time of approaching the writ Court. The situation could have been entirely different in case the appellant-petitioner would have approached the Court within time. However, on account of delay and laches right, if any, is unenforceable through process of law and we find no illegality in the judgment of the learned Single Judge dismissing the writ petition on that account. The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

09.08.2018

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No