

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10049 of 2019

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Sanjay Kumar, Son of Mahadeo Das, Resident of Village- Nazari, P.O. and
P.S. Laxmipur, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Magistrate, Jamui.
4. The District Education Officer, Jamui, District- Jamui.
5. The District Programme Officer, Establishment, Jamui.
6. The District Teachers Appointment Appellate Authority, Jamui.
7. The Block Education Officer, Laxmipur, District- Jamui.
8. The Mukhia-cum-Chairman, Panchayat Teachers Selection Committee, Gram Panchayat Raj, Nazari, Block
9. The Panchayat Secretary, Gram Panchayat Raj, Nazari, Block- Laxmipur, District- Jamui.
10. Shambhu Sharan Das, Son of Baldeo Ravidas, resident of Mohanpur P.O.- Matia, Block- Laxmipur, District- Jamui presently appointed as Panchayat Teacher in Primary School, Jogia, Block- Laxmipur, District- Jamui.
11. The State Appellate Authority, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Indu Bhushan

For the Respondent/s : Mr.Prabhakar Jha GP-27

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 06-05-2019

The present writ petition has been filed for quashing the
order dated 18.2.2019 passed by the State Appellate Authority,



Bihar, Patna in Appeal No. 88 of 2019.

2. The brief facts of the case are that the present case pertains to appointment undertaken by the employment unit of Gram Panchayat Raj-Nazari Block-Laxmipur, District-Jamui in the year 2008. The petitioner is said to be a SC category candidate, however, upon completion of the selection process, the private respondent no. 10 was selected and appointed against the solitary post. Aggrieved with the selection of the private respondent no. 10, the petitioner appears to have approached the District Appellate Authority, Jamui by filing Case No. 13 of 2016, belatedly, after a lapse of about six years inasmuch as the appointment process had concluded on 14.8.2010. The said appeal was rejected by an order contained in memo dated 18.10.2016 on the ground of the case of the petitioner being barred by limitation inasmuch as according to the rules, the time limit fixed for filing the appeal before the District Appellate Authority is 30 days. The petitioner appears to have challenged the said order dated 18.10.2016 before this Court in C.W.J.C. No. 7014 of 2016 and this Court by an order dated 2.11.2017 had quashed the said order dated 18.10.2016 and directed the District Appellate Authority to adjudicate the case of the petitioner on merits, however, the said order of the learned



Single Judge dated 2.11.2017 was challenged before the learned Division Bench and the learned Division Bench by an order dated 17.5.2018 passed in L.P.A. No. 1645 of 2017 had set aside the order of the learned Single Judge dated 2.11.2017. Consequently, the writ petition bearing C.W.J.C. No. 7014 of 2016 was restored to its original file whereupon a learned Single Judge of this Court by an order dated 31.1.2019 disposed of the said writ petition with liberty to the petitioner to approach the State Appellate Authority, Patna against the impugned order dated 18.10.2016 passed by the District Appellate Authority, Jamui, however, the learned State Appellate Authority by an order dated 18.2.2019 has been pleased to dismiss the appeal not only on the ground of delay but also on the ground that the petitioner herein was not able to make out a case, even prima facie, to the effect that the private respondent was selected on the strength of forged / fabricated educational certificate.

3. The learned counsel for the petitioner has submitted that the petitioner has got more marks than the private respondent, hence, his case was fit for being considered for appointment.

4. I have heard the learned counsel for the parties and gone through the materials on record and I find that about a decade has lapsed since the time, the selection process in question had



concluded in the year 2010.

5. It is a well settled principle of law that stale claims should not be adjudicated by the writ courts, especially in cases where third party rights have already crystallized. In this connection, reference be had to a judgment reported in **(2015) 15 SCC 602 (State of Jammu and Kashmir vs. R.K. Zalpuri & Others)**, paragraph nos. 26 to 28 whereof are reproduced hereinbelow:-

“26. In the case at hand, the employee was dismissed from service in the year 1999, but he chose not to avail any departmental remedy. He woke up from his slumber to knock at the doors of the High Court after a lapse of five years. The staleness of the claim remained stale and it could not have been allowed to rise like a phoenix by the writ court.

27. The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim “deo gratias” – ‘thanks to God’.

28. Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petitioner. Stale claims are not to be adjudicated unless non-interference would cause grave injustice. The present case, needless to emphasise, did not justify adjudication. It deserved to be thrown overboard at the very threshold, for the writ petitioner had accepted the order of dismissal for half a decade and cultivated the feeling that he could freeze time and forever remain in the realm of constant



present.”

6. In a judgment reported in **1986(4) SCC 566 (State of M.P. & Ors. vs. Nandlal Jaiswal & Ors.)**, it has been held by the Hon'ble Apex Court that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner, the Court may decline to intervene and grant relief inasmuch as entertaining such a belated claim would have not only the effect of inflicting hardship and inconvenience but also injustice on third parties and creation of third party rights during the interregnum period, is a matter to be considered while exercising discretionary writ jurisdiction.

7. Admittedly, in the present case, the petitioner had approached the District Forum, challenging the appointment of the private respondent after a lapse of almost six years, hence, the case of the petitioner was itself barred by the principle of delay and laches. Thus, the case of the petitioner was rightly rejected by the District Authority, Jamui. The learned State Appellate Authority, Bihar, Patna by the impugned order dated 18.2.2019 has also rightly dismissed the case of the petitioner not only on the ground of delay and laches but also on merits.

8. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any



merit in the present writ petition, accordingly, the same is dismissed.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.5.2019
Transmission Date	NA

