

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22484 of 2014

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Ramesh Kumar Singh Son of-Sri Lakhan Prasad Singh Resident of Village-
Bahuarba, P.O.-Utesara, Block-Salakhua, District-Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Human Resources Department, Patna, Bihar
2. The Block Development Officer, Salakhua, District-Saharsa.
3. The Block Education Officer, Salakhua, District-Saharsa.
4. The Prakhanda Employment Committee Salkhua Block-Salkhua, District-Saharsa, through its Executive Officer.
5. The District Teacher Employment Appellate Authority, Saharsa through its Presiding Officer.
6. Shri Chandeshwari Prasad Yadav, Physical Teacher, Middle School Gospur, Prakhanda Salkhua, District- Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha
For the Respondent/s : Mr.Ga4- Ashok Priyadarshi

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 25-04-2019

The present writ petition has been filed for quashing the order dated 25.03.2014 passed in Case No. 7 of 2012 by the District Appellate Authority, Saharsa whereby and whereunder the said case of the petitioner has been dismissed on the ground of delay of about six and a half years in approaching the aforesaid appellate authority inasmuch as the private respondent no. 6 herein was appointed and pursuant to such appointment, he had joined the post in question on 3.12.2007 after completion of the selection process initiated as far back as in the year, 2006.



2. At the outset, this Court had asked the learned counsel for the petitioner regarding delay in approaching the aforesaid appellate authority, to which no satisfactory explanation could be furnished, however, the learned counsel for the petitioner tried to put forth his arguments on merits.

3. I have heard the learned counsel for the parties and I find that admittedly, the petitioner had approached the learned District Appellate Authority, Saharsa after expiry of a period of six years six months and seven days of the appointment of the private respondent no. 6 herein i.e. after a huge delay during which period the rights of the petitioner have become absolute. Moreover, since the date of passing of the impugned order dated 25.03.2014, further five years have lapsed.

4. This Court is of the view that a person, who is not vigilant of his rights and acquiesces with the situation, his writ petition cannot be entertained. In this regard, it would be useful to quote paragraph no. 29 of a judgment reported in **(2010) 12 SCC 471** hereinbelow:-

"29. It is settled law that fence-sitters cannot be allowed to raise the dispute or challenge the validity of the order after its conclusion. No party can claim the relief as a matter of right as one of the grounds for refusing relief is that the person approaching the court is guilty of delay and the laches. The court



exercising public law jurisdiction does not encourage agitation of stale claims where the right of third parties crystallizes in the interregnum. (vide Aflatoon v. Lt. Governor of Delhi; (1975) 4 SCC 285; State of Mysore v. V.K.Kangan; (1976) 2 SCC 895; Municipal Council, Amhednagar v. Shah Hyder Beig; (2000) 2 SCC 48; Inder Jit Gupta v. Union of India; (2001) 6 SCC 637; Shiv Dass v. Union of India; (2007) 9 SCC 274; A.P. SRTC v. N. Satyanarayana; (2008) 1 SCC 210 and City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla; (2009) 1 SCC 168)."

5. Though, the aforesaid observations were made by the Supreme Court in the matter of a dispute pertaining to seniority which had become final, yet, by way of analogy, what was held by the Supreme Court in the aforementioned case is also applicable to the facts of the present case.

6. Even, in the case of Ex. Capt. Harish Uppal vs. Union of India reported in 1994 SCC, Supl. (2) 195 the Apex Court in para 8 held that:

"8.The petitioner sought to contend that because of latches on his part, no third party rights have intervened and that by granting relief to the petitioner no other person's rights are going to be affected. He also cited certain decisions to that effect. This plea ignores the fact that the said consideration is only one of the considerations which the court will take into account while determining whether a writ petition suffers from latches. It is not



the only consideration. It is a well-settled policy of law that the parties should pursue their rights and remedies promptly and not sleep over their rights. That is the whole policy behind the Limitation Act and other rules of limitation. If they choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of the Constitution of India and that is what precisely the Delhi High Court has done. We cannot say that the High Court was not entitled to say so in its discretion.”

7. It would also be apt to refer to a passage from a judgment rendered by the Hon’ble Apex Court in the case of ***Karnataka Power Corporation Ltd. vs. K. Thangappan & Anr.***, reported in ***(2006) 4 SCC 322*** hereinbelow:-

“Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party”.

8. In yet another case reported in ***(2014) 4 SCC 108*** (***Chennai Metropolitan Water Supply and Sewerage Board vs. T.T. Murali Babu***), Hon’ble Apex Court held as follows:-



“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 scrutinise 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”.

9. For the reasons mentioned hereinabove, as also in view of the law settled by the Hon’ble Apex Court coupled with the unexplained delay on the part of the petitioner in approaching the appellate tribunal and creation of third party rights in the meantime, dis-entitles the petitioner to any relief by this Court, hence, the writ petition is liable to be dismissed on the ground



of delay and laches.

10. The writ petition is dismissed, accordingly.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	AFR
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