

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 675 of 2015**

*{Arising out of Order dated 05.11.2015 passed in Writ Petition (S) No. 1642 of 2009 by
the learned Single Judge}*

Smt. Sushila Parganiha, aged 61 years, wife of Late Shri Dr. Sharad Kumar Paraganiha, resident of MIG C-2345, Housing Board Industrial Estate, Bhilai, District Durg, Chhattisgarh

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Department Of Health Services, Raipur
2. The Director of Ayurved, Homeopathy And Unani System, Government Of Chhattisgarh, Raipur
3. The Joint Director Of Ayurved, Through The Director Of Ayurved, State Of Chhattisgarh, Raipur
4. The District Officer Of Ayurved Cum Superintendent, Office Of The Divisional Officer Of Ayurved, Raipur Chhattisgarh
5. The District Officer Of Ayurved Cum Superintendent, District Ayurved Hospital, Nutan Colony, Bilaspur Chhattisgarh
6. The Superintendent Cum District Ayurved Officer, Durg Chhattisgarh

---- Respondents

For Appellant : Shri Ritesh Verma, Advocate.

For Respondents/State : Smt. Fouzia Mirza, Additional Advocate General.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per Ajay Kumar Tripathi, Chief Justice****06/02/2019**

1. An outright frivolous application was filed much after the death of the husband of the present Appellant praying for all kinds of reliefs, details of which have been taken note of in paragraph 1 of the impugned order dated 05.11.2015 passed by the learned Single Judge.
2. Looking at the cause of action when it arose, also keeping in mind that the husband of the present Appellant who claims himself to have been appointed as a "Vaidya" under the Respondents sometimes in the year

1963 and then re-appointed on 29.05.1964, had abandoned his services with effect from 08.04.1974, never approached any forum during his life time, the cause is being raised by his wife only now.

3. The learned Single Judge, taking the history of the litigation as well as the cause when it arose in relation to such claims had taken a view that such a writ application was not entertainable because a claim which arose 30 years ago could not be allowed to be raised or agitated, that too on half baked facts. Therefore, relying on the principle laid down by the Apex Court, the learned Single Judge had this to say:

"15. Further, the delay in approaching this Court also has a great impediment in the way of the Petitioner inasmuch as no proper explanation or plausible justification has been given by the Petitioner.

16. In 2014 (4) SCC 108 (Chennai Metropolitan Water Supply and Sewerage Board and others v. T.T. Murali Babu), the Supreme Court after relying on its decision rendered in 1986 (4) SCC 566 (State of M.P. v. Nandlal Jaiswal), held thus at paragraphs 15 and 16:-

"15. xxx xxx xxx

"24. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction."

Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice.

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 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 list.”

17. For the foregoing reasons, the present writ petition is totally misconceived and devoid of merits and is also suffers from delay and laches and therefore the same is dismissed.”

4. We are of the opinion that the present writ application has been deliberately filed more as an act of wagering than assertion of bonafide legal right.
5. The admitted position is that since 1974, the husband of the present Appellant never worked or attended the duty without any authority of law. It will amount to voluntary abandonment of service on his part which is an additional ground for not interfering with impugned order of the learned Single Judge.
6. The appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE