

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 369 of 2019**

(Arising out of order dated 28.06.2019 passed by learned Single Judge in WPS- 4700 of 2019)

Ku. Jaba Rani Mandal @ Jabrani Mandal D/o Naren Mandal Aged About 35 Years R/o PV -41, Pankhanjur, District North Bastar, Chhattisgarh, Posted As Shiksha Karmi Grade - III, Government Primary School, PV - 112, Pankhanjur, Janpad Panchayat Koyalibeda, District Kanker Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. The Collector District, Kanker, Chhattisgarh.
3. Chief Executive Officer Janpad Panchayat Koyalibeda Pankhajur, District Kanker Chhattisgarh.
4. R.K. Dhruw Ex. CEO, Janpad Panchayat Koyalibeda Pankhajur, District Kanker Chhattisgarh. (Member Of Shiksha Karmi Grade - III, Selection Committee Koyalibeda District Kanker Chhattisgarh.
5. J.R. Gavde, Secretary/Block Education Officer & Addl. CEO, Janpad Panchayat Koyalibeda Pankhajur District Kanker Chhattisgarh. (Member Of Shiksha Karmi Grade - III, Selection Committee Koyalibeda District Kanker Chhattisgarh.
6. Arjun Ram Sarpe Member, Block Source Coordinator, Koyalibeda, District Kanker Chhattisgarh, (Member Of Shiksha Karmi Grade - III, Selection Committee Koyalibeda District Kanker Chhattisgarh.
7. Shankarlal Jain Prabhari Panchayat And Samaj Sewa Sangathak Koyalibeda, District Kanker Chhattisgarh. (Member Of Shiksha Karmi Grade - III, Selection Committee Koyalibeda District Kanker Chhattisgarh.
8. Asanram Janpad Sadasya Chayan Koyalibeda, District Kanker Chhattisgarh. (Member Of Shiksha Karmi Grade -III, Selection Committee Koyalibeda District Kanker Chhattisgarh.
9. B.P. Saral Member And Project Officer, Women And Child Development Department, Pankhanjur, District Kanker Chhattisgarh. (Member Of Shiksha Karmi Grade -III, Selection Committee Koyalibeda District Kanker Chhattisgarh.

-----Respondents

For Appellants : Shri N.K, Chhatterjee, Advocate.

For State : Shri Vikram Sharma, Dy. GA.

Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Judgment on Board

Per PR Ramachandra Menon, CJ

22.08.2019

1. Challenge in this writ appeal is in respect of correctness and sustainability of the verdict passed by the learned Single Judge whereby interference was declined and the writ petition filed more than 10 years after the arising out the course of action came to be dismissed, holding it as not liable to be entertained.
2. Heard learned counsel for the appellant at length.
3. The sequence of events reveals that the appellant was selected and appointed as 'Shiksha Karmi Grade-III' and was serving the respondent No.3. While so, referring to certain serious instance of misconduct in securing appointment in fraudulent manner, the appellant was terminated from the service by the respondent No.3/Chief Executive Officer, as per the order dated 13.10.2008. Met with the situation, the appellant moved the Appellate Authority, the District Collector, who, after considering the facts and figures declined interference and appeal was rejected as per the order dated 09.04.2018.
4. There is no dispute to the fact that the petitioner did not move any further, with regard to the grievance in relation to the termination of service and rejection of the appeal. At the same time, it is to be noted that a criminal case was registered against the accused in

respect of offences under Sections 420, 467, 468, 471 read with Section 34 of the IPC and the same was pending before the JMFC, Pakhanjur. After completion of trial, the trial Court passed the verdict on 29.8.2017, whereby it was held that the prosecution had failed to establish the charges levelled against the accused beyond any reasonable doubt and in the said circumstance, all the accused were acquitted. After the acquittal as above, the petitioner moved this Court by filing WPS No. 4700 of 2019 seeking for following prayers :-

“10.1 It is prayed that this Hon'ble Court may kindly be pleased to call for the records relating to case of the petitioner from the possession of the respondents for its kind perusal.

10.2. This Hon'ble Court may kindly be pleased to issue an appropriate writ quashing the impugned order dated 13/10/2008 issued by the Respondent No.3 Chief Executive Officer, Janpad Panchayat, Koylibeda, District Kanker, Chhattisgarh as well as the order dated 09.04.2018 issued by Respondent No.2 ie the Collector, District-Kanker and declaring the same to be illegal and inoperative in law.

10.3 This Hon'ble Court may further be pleased to issue an appropriate writ of mandamus directing the respondents to reinstate the petitioner in service with retrospective effect.

10.4 Any other relief/reliefs, which this Hon'ble Court may think fit and proper in the facts and circumstances of the case, with cost of the petition, may also be granted to the petitioner.”

5. The learned Single Judge took note of the undisputed sequence of events and observed that the writ petition filed in the year 2019, after expiry of nearly 10 years of the cancellation of the appointment, was not liable to be entertained. It was accordingly that, the writ petition was dismissed, on the ground of delay and laches, which in turn is put to challenge in this appeal.
6. Despite lengthy hearing, the appellant could not explain how the proceedings before the criminal court had placed hurdle with regard to the rights and liberty of the appellant in challenging the order with regard to the cancellation of the appointment or the order passed by the Appellate Authority, by way of appropriate proceedings. The proceedings before the trial Court was in respect of the offences and to see whether the accused therein, should be punished in accordance with law, which has got nothing to do with the service conditions, the appointment given or cancellation of the same.
7. Learned counsel for the respondent points out that the criminal case was registered against the Members of the Selection Committee who selected the petitioner and gave appointment. The acquittal of the said persons will in no way tilt the balance, insofar as the petitioner did not have any grievance or challenge at any point of time with regard to the registration of the case or as to the cancellation of the appointment given to him. Merely, for the reason that the members of the Selection Committee came to be acquitted because of the failure on the part of the prosecution to prove the offence beyond reasonable doubt, it cannot be a ground for the

petitioner, who remained silent all throughout, to approach this Court after 10 years, challenging the cancellation of appointment.

8. The discretionary jurisdiction vested with this Court is not liable to be extended in favour of persons who are simply sitting on armchair and taking rest accordingly. We find support from the ruling rendered by the Apex Court in the matter of **Rabindranath Bose And Ors. vs The Union Of India (Uoi) And Ors**, reported in **AIR 1970 SC 470**. In the said circumstance, we are of the view that the verdict passed by the learned Single Judge is perfectly within four walls of the law and is not liable to be assailed under any circumstance. Interference is declined. Appeal fails and it is dismissed accordingly.

Sd/-

(PR Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge