

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-9318 of 2019
Date of decision: 08.04.2019**

Chander Pal and others

... Petitioners

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Rajeev Sharma (Raju), Advocate, for the petitioners.

KRISHNA MURARI, CHIEF JUSTICE (Oral)

By means of this petition filed under Article 226 of the Constitution of India, petitioners have challenged notification dated 06.07.2015, whereby the village in question was included within the limits of Municipal Corporation, Sonapat.

2. When confronted with the observations with respect to inordinate delay and laches in filing the writ petition, learned counsel for the petitioners submits that the petitioners approached this Court at an earlier point of time by filing a writ petition, bearing CWP No. 26021 of 2018, which was disposed of by issuing directions to decide legal notice dated 22.8.2018 expeditiously and in pursuance thereof, representation of the petitioners has been rejected on 25.02.2019, and therefore, the petition cannot be said to be barred by delay and laches. This argument advanced by learned counsel for the petitioners is totally misconceived.

3. Hon'ble Apex Court in ***Union of India and another v. M.M.Sarkar 2010(2) SCC 59*** while considering an identical issue has held as under:-

“The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches. A Court or Tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'state' issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or Tribunal deciding to direct 'consideration' without itself examining of the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect.”

4. Admittedly in the case in hand the cause of action accrued to the petitioner when the notification dated 06.07.2015 was issued. Civil Writ Petition No. 26021 of 2018 challenging the said notification was filed in the year 2018 which was disposed of by the learned Single Judge of this Court without examining the issue on-merits with a direction to respondent No.1 to decide the legal notice dated 22.08.2018 expeditiously preferably within a period of three months from the date of receipt of a copy of this order.

5. In pursuance to the aforesaid direction, the representation/legal notice of the petitioner came to be rejected by the authorities vide order dated 25.02.2019. In the garb of challenging the order dated 25.02.2019, as a matter of fact when the real challenge is to the notification dated 06.05.2015 whereby the village in question was included within the municipal limits against which the petitioner is aggrieved, this petition cannot held to have been filed without any laches. The cause of action actually accrued to the petitioner when the said notification was issued and the fact that a decision has been obtained on the representation in pursuance to an order passed by the learned Single Judge of this Court cannot be considered as furnishing a fresh cause of action.

6. As observed by the Hon'ble Apex Court in case *Union of India v. M.M.Sarkar (supra)* the issue of limitation or delay in laches ought to be considered with reference to the original cause of action and from that view this petition is heavily barred by laches and the explanation of having made the representation in pursuance to an order of this Court cannot constitute a ground to condone the same and entertain the petition.

The petition accordingly stands dismissed on the ground of delay and laches.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

April 08, 2019
AK Sharma/ravinder

Whether speaking / reasoned:
Whether Reportable:

√YES
√NO