

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2276 of 2020

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Arun Kumar Mehta Son of Late Dhanik Lal Mahto R/o Village- Bariarpur,
P.S.- Khodawandpur, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Food and Civil Supply Deptt. Govt. of Bihar, Patna.
2. The Director Food and Civil Supply, Government of Bihar, Patna.
3. The District Magistrate Begusarai.
4. The Sub- Divisional Officer Manjhaul, Dist.- Begusarai.
5. The District Food and Civil Supply Officer Begusarai.
6. The Block Supply Officer Khodawandpur, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jai Prakash Singh
For the Respondent/s : Mr.S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 25-02-2020

1. The present writ petition has been filed for quashing the order dated 15.12.2012, passed in Misc. case no. 97 of 2003 by the District Magistrate, Begusarai, whereby and whereunder the order dated 08.07.2003, passed by the S.D.O. Manjhaul, cancelling the licence of the P.D.S. shop of the petitioner, has been upheld.

2. At the outset, the learned counsel for the respondent- State has raised preliminary objection with regard to the maintainability of the present writ petition on the ground of the same being marred by the principles of delay



and laches, inasmuch as the original order of cancellation is of the year 2003 and since then about 17 years have passed by, resulting in a lot of developments having taken place during the interregnum period. In any view of the matter, it is contended that even the appellate order is of the year, 2012 and the petitioner has approached this Court belatedly in the year 2020 i.e. after a lapse of about 07 years, hence no relief should be granted to the petitioner herein.

3. The learned counsel appearing for the petitioner has not been able to furnish any plausible explanation with regard to the aforesaid inordinate delay, which has taken place in approaching this Court.

4. I have heard the learned counsel for the parties and gone through the materials on record. Apparently, there is a delay of about 07 years in filing the present writ petition, even if the appellate order dated 15.12.2012 is taken into account, for which no plausible explanation whatsoever has been furnished, hence the writ petition is fit to be dismissed on the ground of principles of delay and laches, alone.

5. It is a well settled principle of law that stale claims should not be adjudicated by the writ courts. In this connection, reference be had to a judgment rendered by the



Hon'ble Apex Court, reported in ***(2015) 15 SCC 602 (State of Jammu and Kashmir vs. R.K. Zalpuri & Others)***, paragraph nos. 26 to 28 whereof are reproduced herein below:-

"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.**), the Hon’ble Apex Court held as follows :-

“ 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. In **Chennai Metropolitan Water Supply and Sewerage Board & Ors. Vs. T.T. Murali Babu**, it has been ruled thus:

“ Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is re- quired 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”.

Karnataka Power Corpn. Ltd Through its Chairman & Managing Director & Anr Vs. K. Thangappan and Anr would be apposite:-“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”. It was, therefore, contended that the appellant itself had agreed with respondent 2 to pay bonus for 1953, 1954, 1955 and



1956 according to the terms of the bonus agreement. It was also pointed out that the appellant had not pressed its objection with regard to jurisdiction before the labour court or the industrial court. But it appears that the decision of this Court in Prakash Cotton Mills case 1962 (1) LLJ 108] (vide supra) was given on February 16, 1961 after the decision of K. K. Desai, J., on July 1, 1960 and before the decision of the Letters Patent Bench on February 6, 1962. In the circumstances of this case, we do not consider that there is such acquiescence on the part of the appellant as to disentitle it to a grant of writ under [Art. 226](#) of the Constitution. It is true that the issue of a writ certiorari is largely a matter of sound discretion. It is also true that the writ will not be granted 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 circumstance, cause prejudice to the adverse party. The principle is to a great extent, though not identical with, similar to the exercise of discretion in the Court of Chancery. The principle has been clearly stated by Sri Barnes Peacock in Lindsay Petroleum Company v. Prosper Armstrong Hurd, Abram Farewell and John Kemp [Law Reports 5 P.C., 221 at 239] as follows :"

Now the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that



which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

8. Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties as also taking into account the law enunciated by the Hon'ble Apex Court in the cases referred to hereinabove, regarding the principles of delay and laches, this Court finds that as far as the present case is concerned, no plausible explanation has been furnished by the petitioner so as to convincingly explain the delay in



question of about 07 years in approaching this Court, hence the present writ petition is fit to be dismissed on the ground of delay and laches. Accordingly, the writ petition stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
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