

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 226 of 2020***{Arising out of order dated 10.01.2020 passed by the learned Single Judge in
Writ Petition No. 171 of 2020}*

- Ku. Chunnam Keshree D/o Late Janak Lal Keshree Aged About 35 Years
Occupation- Terminated From The Post of Shiksha Karmi Grade Iii Govt.
Middle School Markanar Janpad Panchayat Koyaleibeda District- Uttar
Bastar Kanker R/o Village- Koyaleibeda Tahsil- Pakhanjur District- Uttar
Bastar Kanker (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary Department of School
Education, Mahanadi Bhawan Mantralaya, Nava Raipur District Raipur,
C.G., District : Raipur, Chhattisgarh
2. The Collector District- Uttar Bastar Kanker, C.G.
3. The District Education Officer District- Uttar Bastar Kanker, C.G
4. The Chief Executive Officer Janpad Panchayat- Koyliebeda District- Uttar
Bastar Kanker, C.G.

---- Respondents

For Appellant : Shri Jitendra Nath Nande, Advocate.
For Respondent/State : Shri Chandresh Shrivastava, Deputy Advocate General.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge
Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice**03.03.2020**

1. Interference declined by the learned Single Judge to invoke the
discretionary jurisdiction to entertain the issue projected with regard to
the cancellation of the Service ordered more than a decade ago, is put to
challenge in this appeal.

2. We have heard Shri Jitendra Nath Nande, the learned counsel appearing for the Appellant as well as Shri Chandresh Shrivastava, the learned counsel representing the State.
3. The crux of the factual matrix is that, the Appellant was appointed as Shiksha Karmi Grade-III way back in the year 2007. Subsequently, in connection with some serious misconduct, the appointment was cancelled, which was put to challenge by filing Writ Petition (S) No.95 of 2008 on various grounds, particularly that, no proper opportunity of hearing was given. The said writ petition was considered along with other connected/similar matters and a common verdict was passed on 14.03.2008 as borne by Annexure P/2, whereby the impugned orders were set aside and the matters were directed to be finalized after affording an opportunity of hearing to the parties concerned. It was thereafter, that Annexure P/1 order was passed by the competent authority on 13.10.2008 whereby cancellation of appointment was ordered. This was sought to be challenged by filing Writ Petition (S) No.171 of 2020 before this Court, after an inordinate delay of 12 years.
4. When the matter came up for consideration, the learned Single Judge observed that there was culpable delay on the part of the Petitioner and hence the matter was not liable to be entertained. The observation as given in paragraph-4 is worthwhile to be noted and hence, we extract the same for ready reference :

“4. Be that as it may, almost 12 years have passed and it is 2020. There is no specific reason has been shown as to why the exorbitant delay of 12 years has occurred. The delay as has been explained in the writ petition also do not specify the reason to condone the delay. The petition having been preferred after 11-12 years and the petitioner having approached to this Court earlier

cannot be said to be unaware of the proceeding.
In view of this the petition deserves to be
dismissed on the ground of delay & laches.”

The learned Single Judge has observed that absolutely no explanation was offered from the part of the writ Petitioner anywhere in the writ petition as to the delay of 12 years in filing the writ petition.

5. Today, the learned counsel for the Appellant submits that the Appellant was virtually waiting for the outcome of the criminal cases where the other officers were also proceeded against. They were acquitted by the Criminal Court only recently. The said explanation does not appear to be a palatable one to this Court, in view of the submission made by learned counsel for the Appellant that the Appellant is in no way involved in the criminal case. This being the position, there was no necessity, need or occasion for the Appellant to have waited for the outcome of the criminal case in which, some of the Officers are involved.
6. In the present appeal also, absolutely no explanation has been given; much less anything satisfactory to condone the inordinate delay. The discretionary jurisdiction of this Court is never to extend relief to such a person who was taking rest on armchair, unmindful of his rights and liberties in this regard. We find support from the ruling rendered by the Hon'ble Supreme Court in the matter of ***Rabindra Nath Bose and Others v. Union of India and Others*** reported in ***AIR 1970 SC 470***.
7. There is no merit in the writ appeal. It is dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge