

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 1112 of 2021

1. Bhagwati Raj, D/o Firat Lal Raj, Aged About 33 Years R/o Jamnipali, N.T.P.C. Town, Kavery Vihar, Korba Chhattisgarh.
2. Geeta Porte, D/o Radheshyam Porte, Aged About 27 Years R/o Lutra Sharif, Tahsil - Seepat, District - Bilaspur Chhattisgarh.
3. Pushpa Kashyap, D/o Niranjan Prasad Kashyap, Aged About 33 Years R/o Pakariya (Jhulan), Tahsil - Akaltara, District Janjgir - Champa Chhattisgarh.
4. Meena Yadav, W/o Ramashankar Yadav, Aged About 40 Years R/o Baloda, Maveshi Bazar, Tahsil - Baloda, District Janjgir - Champa Chhattisgarh
5. Kanti, D/o Tiharu Ram, Aged About 33 Years R/o Tarbahar Crossing, Near Heera Nagar Memorial School, Behind Old Pump House, Sirgitti, Bilaspur Chhattisgarh
6. Abhilekha Singh, W/o Shri Surendra Singh, Aged About 29 Years R/o Jagat Singh Bais Azad Chowk, Akaltara, District - Janjgir - Champa Chhattisgarh.,
7. Rama Manjhi, D/o Sonau Ram Manjhi, Aged About 40 Years R/o New Chandaniya Para, Janjgir, District - Janjgir - Champa Chhattisgarh.
8. Meenakshi Tiwari, W/o Satish Kumar Tiwari, Aged About 46 Years R/o Bharat Sadan, Netaji Chown Akaltara Road, Janjgir, District - Janjgir - Champa Chhattisgarh.
9. Suvidha Singh, W/o Jai Prakash Singh, Aged About 31 Years R/o Rajkishore Nagar, Bilaspur, District Bilaspur Chhattisgarh
10. Rajni Pandey, W/o Rajendra Pandey, Aged About 50 Years R/o Old Hospital Colony, Akaltara, District - Janjgir - Champa Chhattisgarh.
11. Virendra Pathak, S/o Pradeep Pathak, Aged About 36 Years R/o Bajrang Chowk, Seepat, District - Bilaspur Chhattisgarh.
12. Neera Dewangan, W/o Kapil Narayan Dewangan, Aged About 34 Years R/o Baloda, District - Janjgir - Champa Chhattisgarh.,

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Government Of Chhattisgarh, Department Of Revenue, Mantralaya, Capital Complex, Naya Raipur, Tehsil And District Raipur, Chhattisgarh, Pin 492101
2. Assistant Commissioner, Bilaspur Division, Bilaspur, Tehsil Bilaspur, District Bilaspur Chhattisgarh.
3. Collector, Janjgir, District - Janjgir - Champa Chhattisgarh.

4. Nagar Panchayat Baloda, Through Chief Municipal Officer, District - Janjgir - Champa Chhattisgarh.
5. District Education Officer, District - Janjgir - Champa Chhattisgarh.
6. Sumit Kumar Tamboli , S/o Ramesh Kumar Tamboli, Aged About 35 Years R/o Ward No. 14, Baloda, District - Janjgir - Champa Chhattisgarh
7. Suresh Kumar, S/o Sant Ram Miri, Aged About 43 Years R/o Ram Nagar, Ward No. 12, Baloda, Tahsil Baloda, District - Janjgir - Champa Chhattisgarh
8. Mukesh Sahu, S/o M.B. Sahu, Aged About 45 Years R/o Sadar, Baloda, Tahsil - Baloda, District - Janjgir - Champa Chhattisgarh.
9. Badri Prasad Dahariya, S/o Budhram Dahariya, Aged About 49 Years R/o Baloda, District - Janjgir - Champa Chhattisgarh.
10. Satish Kumar Dewangan, S/o Mahendra Kumar, Aged About 42 Years R/o Sadar, Baloda, District - Janjgir - Champa Chhattisgarh
11. Rishikesh Ratre, S/o Dev Prasad Ratre, Aged About 33 Years R/o Village And Post Baloda, District - Janjgir - Champa Chhattisgarh.
12. Sameer Katakwar, S/o Bharat Lal Katakwar, Aged About 36 Years R/o Village And Post Baloda, District - Janjgir - Champa Chhattisgarh.

---Respondents

For Petitioner	:	Shri Anish Tiwari, Advocate.
For State	:	Shri Avinash Singh, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18.03.2021

1. The challenge in the present writ petition is to two orders passed by the Collector and the Commissioner dated 20.07.2018 (Annexure P/6) & 29.01.2020 (Annexure P/7).
2. The brief facts of the case is the petitioners herein and the respondents No. 6 to 10 were appointed in the year 2011 as Shiksha Karmi Grade-III. Subsequently, the respondents No. 11 & 12 aggrieved of the appointment of the respondents No. 8 to 10 filed a writ petition i.e. WP(S) No. 151/2013 and the writ petition finally

stood withdrawn vide order dated 03.10.2017 with a liberty to revive it if the cause of action still survives.

3. From the perusal of the records it appears that the respondents No. 11 & 12 after withdrawal of the writ petition immediately preferred an appeal before the District Collector against the entire recruitment process itself along with an application for condonation of delay and the ground of delay was the pendency of the writ petition before this High Court on basis of which condonation was sought.
4. The Collector initially vide order dated 20.07.2018 allowed the same vide order Annexure P/6. The order of allowing the condonation of delay by the Collector was subjected to challenge by a further appeal before the Commissioner by the petitioners herein. The Commissioner again upholding the order of the Collector rejected the contentions of the petitioners vide order dated 29.01.2020 (Annexure P/7) and thereafter, the present writ petition now has been filed in January 2021 challenging two orders of condoning the delay in entertaining the appeal by the Collector. The contentions of the petitioners were more on the fact that the Authority should not have allowed the condonation as the benefit under Section 14 of the Limitation Act, 1963 would not have been attracted in the facts of present case.
5. Another contention raised by the petitioners was that the writ petition originally that was filed by the respondents No. 11 & 12 was only against the respondents No. 8 to 10 and the petitioners herein were not party to the said proceedings, they have only been added as a

party before the Appellate Forum i.e. the Collector and the Commissioner and therefore so far as these newly added parties before the Appellate Authority and the Commissioner since they were not a party in the writ petition, the benefit of Section 14 of the Limitation Act can not be extended to these newly added parties at least and therefore the order is bad-in-law.

6. However on perusal of records what clearly reflects that appointments of the petitioners were made in the year 2011, there were certain complaints in-respect-of the recruitment having not been properly done, the respondents No. 11 & 12 meanwhile had filed a writ petition against few of the selected candidates i.e. the respondents No. 8 to 10 and the said writ petition was subsequently withdrawn. From the pleadings it appears that the respondents had immediately filed an Appeal before the Appellate Forum i.e. the District Collector and whereby all the selected candidates were made a party though they were not party at the first instance in the said writ petition.
7. The said Appeal was also filed along with an application for condonation of delay and reason for condoning the delay shown was the appellants therein having gone before a wrong forum by way of a writ petition and the period consumed before the Writ Court is condoned. The Collector as also the Commissioner both adjusted the contentions of the appellants and have allowed the condonation of delay application and proceeded to decide the Appeal on its merits.

8. This Court at this juncture does not find any strong case made out by the petitioners calling for an interference for the reason that an application under Section 5 read with Section 14 of the Limitation Act is one which is more in the nature of discretionary jurisdiction vested upon the authority who has got the power to condone the delay and the authorities having used the discretionary powers, the scope of interference exercising the writ jurisdiction of this Court under Article 226 is too minimal. Moreover, as per the contention of the petitioners themselves, though both the orders Annexure P/6 and Annexure P/7 are orders which have been passed after hearing all the parties to the dispute and as such they are a bipartite order. The contentions of all these parties have been duly considered by the Authority while entertaining the said application further reduces the scope of interference by this Court under Article 226.
9. For the aforesaid reasons, the writ petition deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Jyotijha