

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 130 of 2021**

Ved Prakash Nishad S/o Shri Dileep Kumar Nishad, Aged About 32 Years, Resident Of Village And Post Kudumkela, Block Gharghoda, District Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh
2. Commissioner, Municipal Corporation, Raipur, District Raipur Chhattisgarh

For Petitioner	:	Mr. Ajay Shrivastava, Advocate
For State	:	Mr. Shreshta Gupta, P.L.
For Respondent no.2	:	Ms. Ruchi Dwivedi, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****01.02.2021**

1. The challenge in the present writ petition is to the order dated 29.11.2014 whereby the appointment given to the petitioner on the post of Assistant Teacher has been cancelled.
2. The facts of the case in brief are that the petitioner was appointed on the post of Assistant Teacher vide order dated 15.10.2014. On account of certain complaints received in respect of the appointment of all similarly placed persons, the respondents subsequently vide impugned order dated 29.11.2014 cancelled the appointment order

dated 15.10.2014 which also bears the name of the petitioner.

3. At the outset, this Court is of the opinion that the writ petition suffers from inordinate unexplained delay. The impugned order was passed as early as on 29.11.2014 and the present writ petition was filed as late as on 14.12.2020 i.e. well after a period of more than 6 years.
4. What is all the more noteworthy to be considered at this juncture is that the petitioner had applied for the post of Assistant Teacher which proves that the petitioner was a qualified person and was well aware of his minimum basic rights. With wide open eyes the petitioner accepted the order dated 29.11.2014 i.e. the cancellation of his appointment order and he did not challenge the same for about 6 years. Now the present writ petition has been preferred only on account of the writ petition of similar nature being entertained by the Court and allowing the same vide order dated 16.04.2019. As regards the said writ petition, the same was filed immediately when the cause of action had arisen in respect of the petitioners therein. The petitioner herein consciously at that point of time chose not to challenge the same and remained silent for a period of more than 6 years and now wants to invoke the writ jurisdiction of this Court only on the basis of the writ petition of similar nature which itself was filed 6 years back was allowed in the year 2019. The petitioner cannot take advantage of the same howsoever meritorious he may be.
5. The Supreme Court time and again has said that for exercising writ jurisdiction the aggrieved person has to approach the Court promptly, if not, within a reasonable period. In this case, the delay is for a period of

more than 6 years which is highly inordinate and the explanation which the petitioner has tried to convey also does not seem to be plausible & justifiable explanation.

6. So far as the delay and laches are concerned, the law in this regard is by now well settled by a series of decisions of the Hon'ble Supreme Court. The question of delay and laches came to be considered recently by the Supreme Court in case of **State of Uttaranchal and Another v. Shiv Charan Singh Bhandari and Others**¹ in which the court has declined to exercise extraordinary jurisdiction in case the petitioner invokes jurisdiction of court with inordinate delay, and held as under :

"In State of T.N. v. Seshachalam, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

...filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

7. Likewise, in the case of **Uttaranchal Forest Development Corpn. and another v. Jabar Singh and others**², it was observed as under:

"43. The termination order was made in the year 1995 and the writ petitions were admittedly filed in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches."

8. Further, in the case of **New Delhi Municipal Council v. Pan Singh and**

¹ 2013 (12) SCC 179

² (2007) 2 SCC 112

others³, the Supreme Court reiterating the principles relating to interference in cases where the petitioner approached the Court with unexplained delay, held as under:

“16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See *Govt. of W.B. v. Tarun K. Roy*, *U.P. Jal Nigam v. Jaswant Singh* and *Karnataka Power Corpn. Ltd. v. K. Thangappan*.)”

9. In the case of **P. S. Sadasivaswamy v. State of Tamil Nadu**⁴, it has been held as under:-

“It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner’s petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant’s petition as well as the appeal.”

10. In the case of **Bhoop Singh v. Union of India**⁵, it was held as under:-

3(2007) 9 SCC 278

4(1975) 1 SCC 152

5(1992) 3 SCC 136

“8. There is another aspect of the matter. Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed.”

11. Very recently in the matter of **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murali Babu**⁶, the Supreme Court has clearly held that the delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation, and expressed their opinion as under-

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required 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 scrutinize 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.

In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

12. From the aforesaid legal position as it stands, this Court does not find any strong case made out by the Petitioner calling for an interference with the impugned order and the present writ petition therefore deserves to be and is accordingly dismissed only on the ground of delay laches alone.

Sd/-
P. Sam Koshy
Judge