

\$~Suppl-24

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P. (C) 3039/2021

SUMIT YADAV

.....Petitioner

Through: Mr.Raghvendra Pratap Singh,
Advocate.

Versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Vinod Diwakar, CGSC
Vishal Kumar Singh, Advocate for
UOI.

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Date of Decision: 8th March, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the Clause 3(iv) of the letter dated 17th August, 2017 issued by respondent no.2 and to direct the respondents to allow the petitioner to be considered under OBC category and grant all consequential benefits.
3. Learned counsel for the petitioner states that the petitioner had qualified the mains SSC Examination, 2015 and submitted two OBC certificates dated 24th December, 2010 and 02nd December, 2015 for consideration in OBC category.

4. He further states that respondent no.2 refused to accept the two certificates on erroneous technical grounds. According to him, such rejection was illegal. He also states that a similarly placed candidates had been granted relief by the Kerala High Court in W.P.(C) No.39210/2015 vide judgment/order dated 20th January, 2016. He points out that a Special Leave Petition filed by the State was dismissed by the Supreme Court vide order dated 23rd January, 2017.

5. Having heard learned counsel for the petitioner, this Court is of the view that the present writ petition is barred by delay and laches as the examination and selection process was done in 2015. It is pertinent to mention that the other similarly placed candidate who had filed a W.P.(C) No.39210/2015 had approached the Kerala High Court in the year 2015 itself.

6. Further in the present case, the petitioner had given an undertaking dated 14th December, 2015 to the effect that he will not claim any benefit(s) under the OBC category. The said undertaking given by the petitioner is reproduced hereinbelow:-

“UNDERTAKING

Subject: Rectt. of Sub-Inspector in Delhi Police, CAPFS, ASI IN CISF, Examination, 2015: Conduct of Interview regarding.

With reference to my candidature for the above mentioned examination, I Sumit Yadav Roll No. 30090/2010. Undertake that I had applied for this examination under OBC category but I am unable to submit the OBC certificate (original) in the prescribed proforma (as per ‘Annexure-VII’ of the Notice) for Central Govt. Offices obtained from the competent authority within three years before the closing date of application form i.e. 02.05.2015, certificate issued up-to the 180 days from the closing date of

application form. It means certificate issued from 03/05/2012 to 29/10/2015 will also be accepted by the commission. My age is within the age-limits as prescribed for UR candidates for the said examination.

It is, therefore, requested that my category for the said examination may be treated as U.R. i.e. (General).

I will not claim for OBC status. Decision taken by the Commission regarding my candidature will be acceptable to me.

Signature sd/-

Name Sumit Yadav

Roll No. 30090/2010

Date of Interview 14-12-2015”

7. At this stage, learned counsel for the petitioner states that the aforesaid undertaking was given under coercion as he was the sole earning member in the family.

8. This Court is of the view that if the petitioner was aggrieved by the examination and selection procedure conducted in 2015 and if the undertaking dated 14th December, 2015 had been given by the petitioner under coercion, he should have approached the High Court in 2015 itself when the other similarly placed candidate had approached the High Court of Kerala or at least, immediately after the letter dated 17th August, 2017 had been issued to the petitioner. The Supreme Court in the case of **Chairman/Managing Director, U.P. Power Corporation Ltd. & Ors. vs. Ram Gopal, 2020 SCC OnLine SC 101** has held that delay defeats equity and law favours the vigilant and not the indolent. The relevant portion of the said judgment is reproduced hereinbelow:-

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate

laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fencesitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In SS Balu v. State of Kerala, this Court observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.”

17. Similarly, in Vijay Kumar Kaul v. Union of India this Court while considering the claim of candidates who, despite being higher in merit, exercised their right to parity much after those who were though lower in merit but were diligently agitating their rights, this Court observed that:

“27. ...It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time.”

9. It has also been repeatedly held by the Supreme Court that repeated representations by the petitioner would not extend the time period to file the writ petition.

10. This Court is also of the view that if the petitioner is treated as an OBC candidate for the exam conducted in 2015, he would be entitled to the benefit(s) under the *rota quota* system and as a consequence would not only have to be shifted from CISF to Delhi Police but would also have to be granted promotions in the OBC category. Consequently, grant of any such

relief at this stage to the petitioner would have an adverse affect down the chain and the seniority of a large number of officers both in CISF and Delhi Police would be adversely affected. Accordingly, the present writ petition is dismissed on the ground of delay and laches.

11. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MARCH 08, 2021
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MANMOHAN, J

ASHA MENON, J



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