

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5417 of 2021

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Diwali Kumar son of late Kanhai lal Resident of Mohalla- Chhoti Patan Devi,
Nayatola, Patna City, P.S.- Chauk, Dist- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary Department of Agriculture Patna
2. The Special Secretary Department of Agriculture, Govt. of Bihar, Patna
3. The District Magistrate cum Chairman Companionate Committee Patna
4. The Administration Bihar State Agriculture Marketing Board Pant Bhawan, Bailey Road, Patna
5. The Secretary Agriculture Production market committee Patna City

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumari Sujata Sinha
	:	Mr. Upendra Kumar
For the Respondent/s	:	Mr. Lalit Kishore (Ag)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 03-02-2022

The matter is heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“That this is an application for issuance of writ in the nature of mandamus and/or any other appropriate writ order or direction commanding upon the respondent to appoint the petitioner on compassionate ground on suitable part.”

3. The present petition is hopelessly barred by limitation and laches for the reasons that petitioner’s father died on 06.12.2000. In the pleadings, it is stated that petitioner filed an



application for compassionate ground on 15.01.2020. Date and events have not been made crystal clear in the pleadings, that apart, petitioner had a cause of action in the year 2000. At the best the petitioner could have availed writ remedy within a period of three years where as the present petition is presented in the year 2021. Even though if there is certain delay on the part of the official respondent, the petitioner should have approached this Court in seeking direction to consider and decide the petitioner's application for compassionate appointment. In other words petitioner has slept over his right to seek compassionate appointment.

4. Apex Court held that compassionate appointment is not a fundamental right. The object of providing compassionate appointment is to meet immediate harness in the family. The petitioner family survived from 06.12.2000 to this day, therefore, the petitioner has not made out a case on the ground of delay and laches. Apex Court in the case of *State of Jammu and Kashmir V/s. R.K.Zalpuri and others* reported in AIR 2016 SC 3006, **Paragraph-20** has held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.Dosu Aardeshir Bhiwandiwalla and others {(2009) 1 SCC 168}, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-



“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

- (a) Adjudication of writ petition involves any complex and disputed question of facts and whether they can be satisfactorily resolved;*
- (b) The petition reveals all material facts;*
- (c) The petitioner has any alternative or effective remedy for the resolution of the dispute;*
- (d) Person invoking the jurisdiction is guilty of unexplained delay and laches;*
- (e) Ex facie barred by any laws of limitation;*
- (f) Grant of relief is against public policy or barred by any valid law; and host of other factors”*

One of the principle laid down in the aforesaid decision is that before entertaining a petition under Article 226, delay and laches would required to be taken note of, accordingly, the present petition stands dismissed on the ground of delay and laches.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

Underline Emphasized

