

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2325 of 2022

In
Civil Writ Jurisdiction Case No.23511 of 2018

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Rakesh Kumar Son of Late Ram Chandra Singh Resident of Village and P.O.-
Tinkoni, P.S.-Darpa and District-East Champaran (Motihari).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Foods and Civil Supplies Department, Govt. of Bihar, New Secretariate, Patna.
2. The District Magistrate, East Champaran.
3. The District Supply Officer, at Motihari, East Champaran.
4. The Sub-Divisional Officer at Raxaul, East Champaran.
5. The Block Supply Officer, at Chhauradano, East Champaran, Motihari.
6. Raj Kumar Singh Son of Yogendra Singh Resident of Village and P.O.-
Tinkoni, P.S.-Darpa, District-East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shiv Shankar Prasad Yadav, Adv.

For the Opposite Party/s : Mr.Arvind Ujjwal (SC-4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 17-05-2024

1. The present petition has been filed for restoration of a writ petition bearing C.W.J.C. No.23511 of 2018, which has stood dismissed for default on 18.01.2019 on account of non-compliance of the peremptory order dated 21.12.2018.

2. The learned counsel for the petitioner has submitted that this Court had passed a peremptory order on 21.12.2018 in the aforesaid writ petition bearing C.W.J.C. No. 23511 of 2018, however, the previous counsel had defaulted in complying with the said order dated 21.12.2018, resulting in the aforesaid writ petition having been dismissed for default. It is further



submitted that the petitioner had waited for a long time for proceeding of his case, however when he did not receive any information from his earlier counsel, he had searched the case status from the website of this Court and found that his case has stood dismissed for default through an order dated 21.12.2018, whereafter the present restoration petition has been filed by the present counsel for restoration of the aforesaid writ petition, hence it is submitted that the aforesaid writ petition be restored to its original file.

3. Per contra, the learned counsel for the respondent-State has vehemently opposed the present petition and has submitted that no lis apparently survives, after lapse of about 6 years of filing of the aforesaid writ petition, inasmuch as the aforesaid writ petition was filed by the petitioner, challenging the final merit list published on 20.09.2018, whereby and whereunder the private respondent no.6, had been declared successful for the purposes of being allotted the Public Distribution System shop in question under Tinkoni Panchayat of Chhauradano Block, East Champaran, ignoring the candidature of the petitioner. It is submitted that now, after a lapse of so many years, the petitioner cannot be permitted to rake up a stale issue, apart from the fact that the present petition is also not maintainable, being barred



by the principle of delay and laches.

4. I have heard the learned counsel for the parties and perused the materials on record, from which it is clear that the facts of the present case lie in a narrow compass, inasmuch as the petitioner had filed a writ petition, bearing C.W.J.C. No.23511 of 2018 on 22.11.2018, whereafter, the same was heard by this Court on 21.12.2018 and notices were issued to the respondent no.6 by the said peremptory order dated 21.12.2018, however, the same was not complied with within the stipulated time period of four weeks, resulting in the aforesaid writ petition having stood dismissed for default on 18.01.2019. It appears that the petitioner had been sitting idle thereafter, but belatedly i.e. after a lapse of about four years, had filed the present restoration petition on 11.11.2022 and that too through a different counsel, other than the one who had filed the aforesaid writ petition, without the petitioner seeking no objection from the said learned counsel, who had filed the aforesaid writ petition. Nonetheless, the fact remains that the present petition is hopelessly barred by the principle of delay and laches. In this connection, it would be gainful to refer to a judgment rendered by the Hon'ble Apex Court in the case of *The State of Jammu & Kashmir vs. R.A. Zalpuri and Ors.*,



reported in **(2015) 15 SCC 602**, as also the one rendered in the case of **Chennai Metropolitan Water Supply and Sewerage Board & Ors. vs. T.T. Murali Babu**, reported in **(2014) 4 SCC 108**.

5. In a judgment reported in **1986 (4) SCC 566 (State of M.P. & Ors. vs. Nandlal Jaiswal & Ors.)**, the Hon'ble Apex Court held as follows :-

“That the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner, the Court may decline to intervene and grant relief inasmuch as entertaining such a belated claim would have not only the effect of inflicting hardship and inconvenience but also injustice on third parties and creation of third party rights during the interregnum period, is a matter to be considered while exercising discretionary writ jurisdiction.”

6. Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties as also taking into account the law enunciated by the Hon'ble Apex Court in the cases referred to hereinabove, regarding the principles of delay and laches,



this Court finds that as far as the present case is concerned, no plausible explanation has been furnished by the petitioner so as to convincingly explain the delay of about 4 years in approaching this Court, hence the present petition is fit to be dismissed on the ground of delay and laches alone.

7. Yet another aspect of the matter is that it is a well settled principle of law that there should be an end to litigation and there should be a finality of the judicial proceedings in order to prevent multiplicity of judicial proceedings on the same subject-matter, having same cause of action. The principle of finality of litigation is based on a sound firm principle of public policy. Doctrine of finality ensures an end to a litigation in public interest.

8. Having regard to the facts and circumstances of the case and for the forgoing reasons, this Court finds that as far as the present case is concerned, no plausible reason whatsoever has been furnished by the petitioner so as to convincingly explain the delay in question of about 4 years in approaching this court for restoration of the aforesaid writ petition, hence taking into account the well settled principle of law laid down by the Hon'ble Apex Court in a catena of judgments, as referred to



hereinabove in the preceding paragraphs, as also keeping in mind the maxim- “equity aids the vigilant and not those who slumber on their rights”, apart from considering the well settled principle of law to the effect that entertaining such a belated petition would have the effect of not only inflicting hardship and inconvenience but also injustice on third parties, whose rights have already been crystallized, this Court finds that the present petition is bereft of any merit, hence is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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