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Ct. No. 08

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FMA 4695 of 2016
IA No. CAN 1 of 2016 (Old No. CAN 10699 of 2016)

Bijaya Biswas (Das)
Vs.
The State of West Bengal and others.

Mr. Prahlad Chandra Ghosh,
Mr. Subir Hazra.

... for the appellant.

The instant mandamus appeal arises from an order dated 24th August 2016 passed in WP 10739(W) of 2016 by which the writ petition was dismissed on the ground of delay and laches attributable to the conduct of the appellant.

The appellant challenged the process of recruitment initiated in the year 2000 after a gap of nearly sixteen years. It is observed that several other recruitment processes had already been undertaken during such interregnum period and there is no explanation offered by the appellant with regard to delay in approaching the Writ Court.

It is undeniable that there is no period of limitation provided in the Limitation Act in pursuing the remedy before the Writ Court, but the Courts have imposed the restrictions in entertaining the writ petition filed after an inordinate delay. It has been a consistent view of the Court that the delay and laches may be one of the relevant factors in denying the relief claimed before the Writ Court unless there is a proper explanation pleaded therein.

We are conscious that the violation/infringement of the fundamental rights guaranteed under Part-III of the Constitution of India may not come within the bracket of such delay and laches, but any other relief, which are claimed on such other grounds, more particularly, in case of recruitment, the delay and laches are the relevant

factors.

Preciously the Single Bench does not find any explanation given in the writ petition, which constrained the appellant to approach the Court showing an alacrity and further found that several other recruitment processes have undergone during such interregnum.

The fence sitter should not be encouraged, who was sitting on the fence and watching the proceedings and taking advantage of certain orders passed by the Court. Furthermore, a person, who slept in slumber for a considerable period of time, may deprive himself of the equitable relief claimed before the Court of Equity and, therefore, we do not find that the findings made in the impugned order warrants any interference.

The appeal and the connected application being CAN 1 of 2016 (Old No. CAN 10699 of 2016) are dismissed.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)