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

+ **W.P.(C) 13688/2024, CM APPL. 57330/2024**

**ALL INDIA ASSOCIATION FOR PRIVATE
DENTAL COLLEGES**

.....Petitioner

Through: Mr. Rajiv Nayar, Sr. Adv with Mr.
Rajshekhr Rao, Sr. Advocate
alongwith Mr. Krishandev
Jagarlamudi, Mr. Manav Vohra, Mr.
Manjira Dasgupta, Ms. AAshna
Chawla, Advs.

versus

DENTAL COUNCIL OF INDIA & ANR.Respondent

Through: Mr. T. Singhdev, Mr. Bhanu Gulati,
Advs.
Mr. Ripudaman Bhardwaj, CGSC
with Mr. Abhinav Bhardwaj, GP and
Ms. Pratisha Chauhan, Adv for R-
2/UOI.
Mr. Bhagwan Swarop Shukla, Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **27.09.2024**

CM APPL. 57331/2024

Allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 13688/2024, CM APPL. 57330/2024

1. After hearing learned senior counsel appearing for the petitioner, the Court finds that in the instant writ petition, the petitioner seeks to challenge



the inspection notice dated 04.08.2021 (for Uttar Pradesh), inspection notice dated 27.07.2021 (for Himachal Pradesh), and inspection notice (for Uttarakhand).

2. It is discernible that the aforesaid notices have been issued way-back in the year 2021. Learned counsel for the petitioner, however, submits that various subsequent inspections have been carried out and the respondents are subjecting the institutions to repeated inspection.

3. However, the fact remains that in the instant writ petition, what is under challenge is the order which was passed in the year 2021. None of the subsequent actions/orders are under challenge. The prayer has to be considered in the way it is couched. There does not seem to be any reasonable explanation offered by the petitioner for the delay caused in challenging the impugned orders.

4. Recently, this Court, *vide* decision dated 27.08.2024 in the case of ***Kumbam Ram Reddy v. Union of India***¹, while relying upon the enunciation of law on the aforesaid aspect, as explained in the decision of the Supreme Court in ***Mrinmoy Maity v. Chhanda Koley***², took a view that a party which approaches the Court belatedly or sleeps over its rights for a considerable period of time, ought not to be granted the extraordinary relief by the writ courts. The relevant paragraphs of the said decision read as under:-

“4. A party which approaches the Court belatedly or sleeps over its rights for a considerable period of time, it ought not to be granted the extraordinary relief by the writ courts. In fact, delay or laches is one of the factors which should be borne in mind by the Writ Courts while exercising discretionary powers under Article 226 of the Constitution

¹ W.P. (C) 11730/2024

² 2024 SCC OnLine SC 551



of India. No doubt, there is no fixed limitation period as such for filing of a writ petition, however, the same will have to be examined in view of the facts and circumstances involved in each case. **Any laxity in the form of an unexplained delay on the part of litigants in approaching the Writ Court for claiming their rights ought to be thwarted.**

5. The Court also takes note of the decision passed by the Supreme Court in the case of *Mrinmoy Maity v. Chhanda Koley*, wherein, it has been held that while exercising writ jurisdiction under Article 226 of the Constitution of India, the Court will have to necessarily take into consideration the delay and laches on the part of the petitioners and the petition can be dismissed on that sole ground itself, if the explanation is found to be unsatisfactory. The relevant excerpts of the said decision are reproduced as under:-

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. **An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India.** In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical precision. **The ultimate discretion to be exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.**



11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and latches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and latches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and latches on the part of the applicant in approaching a writ court.....”

(emphasis supplied)

5. In view of the aforesaid, the instant writ petition stands dismissed on the ground of delay. Pending application is also disposed of.

PURUSHAINDR KUMAR KAURAV, J

SEPTEMBER 27, 2024/KG