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

+ **W.P.(C) 5096/2024**

RAJESH KUMAR AHIRWAR

.....Petitioner

Through: **Mr. Jai Wadhwa, Advocate**

versus

DEEN DAYAL UPADHAYA

COLLEGE AND ANR

.....Respondents

Through: **Ms. Beenashaw Soni and Ms. Mansi Jain, Advocates for R-1/DDU**
Ms. Aakanksha Kaul, Mr. Aman Sahani, Mr. Akash Saxena, Ms. Ashima Chopra and Ms. Rhea Borkotoky, Advocates for R-2/DU

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

20.01.2025

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1. The present petition has been filed with the following prayers:-

(i) issuance of Writ of Mandamus or direction directing the respondent no.1 to submit the internal assessment marks in 42224304 Thermal physics paper & Statistical Mechanics in Semester III of petitioner to respondent no.2 and thereafter directing respondent no.2 to issue the petitioner's degree of B.Sc Phy. Science.

(ii) Pass any order/direction that this Court may deem fit and appropriate in the present facts and circumstances of the case.

2. The petitioner basically is aggrieved by the fact that in the mark sheet issued for the III Semester exam, in May-June, 2018, the internal examination marks of Thermal Physics and Statistical Mechanics were not shown. Learned counsel submits that the petitioner was a



regular attendee with a 100% attendance record and he was surprised to find that his name was missing in the internal assessment list during the III Semester. Learned counsel for the petitioner has fairly submitted that the petitioner was pursuing the B.Sc course for the academic session 2015-18.

3. Learned counsel for the petitioner submits that the petitioner had written a letter to the Chief Minister of Delhi in 2022 and no action was taken.
4. The present petition has been filed in the year 2024 with inordinate delay and laches. No substance is found in the grounds for delay taken by the petitioner. Though there is no statutory limitation prescribed for filing a writ petition under Article 226 of the Constitution, the law on delay and laches is well settled. The Apex Court in **Mrinmoy Maity v. Chhanda Koley and Others** 2024 SCC OnLine SC 551, *inter-alia* held as under:

“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 laches 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 laches, 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 laches on the part of the applicant in approaching a writ court.

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5. It would further be apposite to take note of the dicta laid down by Apex Court in **Karnataka Power Corportion Ltd. and another v. K. Thangappan and another**, (2006) 4 SCC 322 whereunder it has *inter-alia* been held that the High Court may refuse to exercise extraordinary jurisdiction if there is negligence or omissions on the part of the applicant to assert his right. It was further *inter-alia* held as under:

“8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in Rabindranath Bose v. Union of India [(1970) 1 SCC 84 : AIR 1970 SC 470] that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

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6. In **State of M.P. v. Nandlal Jaiswal**, (1986) 4 SCC 566, it was *inter-alia* held that an inordinate and unexplained delay in filing a writ petition can be a ground for its dismissal, as delay defeats equity. Similarly, in **Shiv Dass v. Union of India**, (2007) 9 SCC 274, it was reiterated that if a party sleeps over its rights and approaches the court after an unreasonable delay, the court may refuse to exercise its



discretionary jurisdiction. Further, in **Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Murali Babu**, (2014) 4 SCC 108, the Apex Court observed that delay and laches are significant factors in writ jurisdiction, and unexplained delay may lead to the dismissal of the petition.

7. Considering the principles laid down in these judgments, and in view of the fact that the present petition has been filed after an unexplained delay, I find that the same is barred by limitation.
8. Accordingly, the writ petition is dismissed on the grounds of delay and laches.

DINESH KUMAR SHARMA, J

JANUARY 20, 2025
N/HT