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20.01.2026
Ct. No. 11
rrc

FMA 1205 of 2024
with
IA No. CAN 1 of 2024
(Santa Kumari Shil @ Sil Vs. The State of
West Bengal & Ors.)

Mr. Dilip Kumar Maity
.... For the appellant

Mr. Supriyo Chattopadhyay
Mr. Pinaki Bhattacharyya
..... For the State respondents

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
..... For the W.B.C.S.S.C.

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
..... For the W.B.B.S.E.

This intra-court appeal has been preferred questioning the legality of the order dated 20th August, 2024 passed in WPA 9309 of 2023, whereby the writ petition was dismissed on account of its belated presentation

Briefly stated, the facts leading to the institution of the present appeal are that the writ petitioner/appellant (hereinafter referred to as 'the appellant') participated in the 12th Regional Level Selection Test (in short, RLST), 2011, as an untrained female Scheduled Caste, non-in-service candidate for appointment to the post of Assistant Teacher in Hindi (Pass) in Non-Government Aided Hindi-medium Secondary Schools.

Almost eleven years thereafter, in the year 2022, she made an application under the relevant provisions of the Right to Information Act before the competent authority seeking

information regarding the marks obtained by the last empanelled candidate under the said category. Upon examining the information furnished to her pursuant to such application, she apprehended that the candidates placed below her in the merit list had been appointed in disregard of merit, thereby depriving the petitioner of her rightful appointment.

To ventilate such grievance, the petitioner filed the writ petition on 17th April, 2023. While dismissing the writ petition, the learned Single Judge observed that the panel prepared pursuant to the 12th RLST, 2011 had expired on 24th March, 2015, whereas the writ petition was filed much thereafter. The learned Single Judge further observed that upon expiry of the panel, a candidate who had participated in the selection process no longer retains any right to be considered in connection with the said selection process i.e. the 12th RLST, 2011. It was also held that no relief could be granted to the petitioner nearly eight years after the expiry of the panel. Aggrieved by the said order, the present appeal has been preferred.

Mr. Maity, learned advocate appearing for the appellant, submits that the learned Single Judge declined to grant any relief solely on the ground of belated approach. He contends that the law of limitation does not strictly apply to writ proceedings. In support of such contention, he relies upon the decision reported in (1983) 2 SCC 1 (Smt. Sudama Devi v. Commissioner and Others).

He further submits that the petitioner secured 72 marks, whereas the last empanelled candidate secured 59 marks. Therefore, had the petitioner's candidature been duly and

properly considered, she would have been appointed to the post of Assistant Teacher in Hindi.

In response, Ms. Dubey, learned advocate appearing for the Commission, submits that the petitioner is an untrained female Scheduled Caste, non-in-service candidate. She submits that according to the applicable rules, trained candidates are required to be called for counselling first, and only if vacancies remain thereafter, untrained candidates may be considered. She submits that in the present case, no untrained female Scheduled Caste candidate was called for counselling. She further submits that only one untrained male candidate under the Scheduled Caste category, having temporary in-service status, was called for counselling. Accordingly, she refutes the petitioner's contention that candidates placed below her in the merit list were favoured with appointment.

Mr. Bhattacharyya, learned advocate appearing for the State respondents, adopts the submissions advanced by Ms. Dubey. Similarly, Ms. Bhattacharyya, learned advocate appearing for the Board, also supports the contentions advanced by Ms. Dubey.

Heard the learned advocates appearing for the respective parties. Perused the materials on record.

Indisputably, the law of limitation does not directly apply to writ proceedings, and no specific period of limitation has been prescribed for filing a writ petition. However, the doctrine of delay and laches does apply in writ proceedings. It is a well-settled proposition of law that while exercising extraordinary writ jurisdiction under Article 226 of the Constitution of India, a Constitutional Court, while protecting the rights of citizens,

must also examine whether or not a writ petition preferred belatedly without adequate explanation ought to be entertained. Delay operates against equity. Although delay or laches may not be fatal in all cases, inordinate delay causes injury to the lis, may affect the ripened rights of others, and unnecessarily drag third parties into litigation.

Where a writ petition is filed after a lapse of eight years and the delay is not satisfactorily explained, it gives rise to a presumption not only of delay but also of laches. Laches signifies something more than mere delay. It denotes slackness or negligence in diligently pursuing a legal remedy, whereby a party forfeits the benefit thereof, in view of the settled principle *vigilantibus non dormientibus jura subveniunt*, that is to say, the law comes to the assistance of the vigilant and not of those who sleep over their rights.

As noticed previously, in the present case, the writ petition was preferred almost eight years after the expiry of the panel; however, no satisfactory explanation has been furnished to justify such belated approach.

The judgment relied upon by the appellant is distinguishable on facts. In the said case, the delay was only 136 days. In contrast, in the present case, there is a delay of nearly eight years after the expiry of the panel in preferring the writ petition.

Therefore, a writ court may refuse to exercise its discretionary jurisdiction in cases of unexplained belated action. In the present case, for this very reason, the learned Single Judge declined to entertain the writ petition, and such decision cannot be faulted.

However, even if the said technical aspect is ignored and the matter is examined on merits, we find that the writ petitioner has failed to substantiate the contention that candidates placed below her in the merit list were favoured with appointment. From the information furnished by the Commission, it appears that no untrained female Scheduled Caste, non-in-service candidate was called for counselling, and that only one untrained male Scheduled Caste candidate, having the status of a temporary in-service candidate, was called for counselling. Be it noted here that the petitioner is a non-in-service candidate.

In view thereof, we are not inclined to interfere in this appeal. Accordingly, the appeal and the connected application are dismissed.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)