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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WP No. 32787 of 2022

CNR:{HCMA011821512022}

Hindu Middle School
Rep. by its Secretary,
Subbanoor, Kizhpavur Range,
Tenkasi District.

..Petitioner

Vs

1. The Director of School Education,
   College road, Chennai – 600006.

2. The Chief Educational Officer,
   Tenkasi.

3. The District Educational Officer(Elementary),
   Tenkasi.

4. The District Educational Officer,
   Cheranmahadevi, Tirunelveli District.

5. Sundaravelraj

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to grant permission for punishing the 5th respondent, pursuant to the enquiry report dated 07.11.2009.

For Petitioner: Mr.R.Kamaraj

For R1 to R4: Mrs.Y.Kavitha,
Additional Government Pleader

For R5: Mr.G.R.Ramesh Prabbhu

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This Writ Petition has been filed by the petitioner for the issuance of a writ of mandamus directing the 1st respondent to grant permission for punishing the 5th respondent, pursuant to the enquiry report dated 07.11.2009.

2. The learned counsel for the petitioner submitted that that there was disciplinary proceedings against the 5th respondent during the year 2009 and in pursuance thereto, the Enquiry officer by his report dated 07.11.2009 has found that the 5th respondent was found guilty of the charges. Based on that, the punishment to the 5th respondent has to be imposed by the 1st respondent whereas the 1st respondent has not imposed punishment against the 5th respondent.

3. In this regard, the learned Additional Government Pleader contended that the post in which the 5th respondent was working in the petitioner's school was shifted to another school and the petitioner was also transferred to K.C. Middle School, Venkadampatty, Kadayam Range, Tirunelveli District. Therefore, it is his contention that the petitioner cannot have any grievance in respect of the 5th respondent, even though an enquiry was conducted.

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4. At this juncture, the learned counsel for the 5th respondent contended that the petitioner's school was aided under the direct payment scheme. After that, vide proceedings dated 25.03.2013 by the Director of Elementary Education, all the disciplinary proceedings against the 5th respondent were dropped and the period of suspension from 03.04.2009 to 15.09.2009 was treated as duty period with payment of salary.

5. I have given my anxious consideration to either side submissions.

6. Though the learned counsel for the 5th respondent says so, no document has been submitted before this Court. Notwithstanding the above fact, since the petitioner has come up for mandamus in respect of an issue that had cropped up during 07.11.2009, it clearly demonstrates delay and latches. Therefore, this Court is of the firm view that notwithstanding the merits, by the very reason of delay, the present writ petition is liable to be dismissed.

7. In this regard, it would be useful to refer to the following judgments. For ready reference, the same are extracted one after another:-

(a) In ***M.Samuel Satyendranath Vs. State Bank of India*** **(W.P.No.39494 of 2015 dated 17.08.2023),** the relevant portion is extracted hereunder:-

"12. In this regard, the learned counsel for the respondents

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relied upon the Judgment of Hon'ble Supreme Court of India reported in 2014 4 SCC 108 in the case of Chennai Metropolitan Water Supply and Sewarage Board and others Vs T.T.Murali Babu, wherein held as follows:-

> *"In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."*

(b) In ***Chennai Metropolitan Water Supply & Sewerage Board Vs. T.T.Murali Babu*** reported in ***(2014) 4 SCC 108***, which reads as follows:-

> ***"15.*** *In State of M.P. v. Nandlal Jaiswal [(1986) 4 SCC 566 : AIR 1987 SC 251] the Court observed that: (SCC p. 594, para 24)*
>
> > *"24. ... it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic."*

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It has been further stated therein that: (Nandlal Jaiswal case [(1986) 4 SCC 566 : AIR 1987 SC 251] , SCC p. 594, para 24)

> *"24. ... If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction."*

Emphasis was laid on the principle of delay and laches stating that resort to the extraordinary remedy under the writ jurisdiction at a belated stage is likely to cause confusion and public inconvenience and bring in injustice."

(c) In ***C.Jacob Vs. Director of Geology & Mining*** reported in ***(2008) 10 SCC 115,*** which reads as follows:-

> *"13. Where an employee unauthorisedly absents himself and suddenly appears after 20 years and demands that he should be taken back and approaches the court, the department naturally will not or may not have any record relating to the employee at that distance of time. In such cases, when the employer fails to produce the records of the enquiry and the order of dismissal/removal, court cannot draw an adverse inference against the employer for not producing records, nor direct reinstatement with back wages for 20 years, ignoring the cessation of service or the lucrative alternative employment of the employee. Misplaced sympathy in such matters will encourage indiscipline, lead to unjust enrichment of the employee at fault and result in drain of public exchequer. Many a time there is also no application of mind as to the extent of financial burden, as a result of a routine order for back wages."*

(d) In ***State of Maharashtra Vs. Digambar*** reported in ***(1995) 4 SCC 683,*** the relevant portion is extracted hereunder:-

> *"25. In our view, the above allegation is in no way sufficient to*

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hold that the writ petitioner (respondent here) has explained properly and satisfactorily the undue delay of 20 years which had occurred between the alleged taking of possession of his land and the date of filing of writ petition in the High Court. We cannot overlook the fact that it is easy to make such kind of allegations against anybody that too against the State. When such general allegation is made against a State in relation to an event said to have occurred 20 years earlier, and the State's non-compliance with petitioner's demands, the State may not at all be in a position to dispute such allegation, having regard to the manner in which it is required to carry on its governmental functions. Undue delay of 20 years on the part of the writ petitioner, in invoking the High Court's extraordinary jurisdiction under Article 226 of the Constitution for grant of compensation to his land alleged to have been taken by the governmental agencies, would suggest that his land was not taken at all, or if it had been taken it could not have been taken without his consent or if it was taken against his consent he had acquiesced in such taking and waived his right to take compensation for it.

(e) In ***State of M.P. Vs. Nandlal Jaiswal*** reported in ***(1986) 4 SCC 566,***

which reads as follows:-

"24. Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the 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 in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ

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jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgment with reference to various decisions of this Court where it has been emphasised time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal. We may only mention in the passing two decisions of this Court one in Ramana Dayaram Shetty v. International Airport Authority of India [(1979) 3 SCC 489 : AIR 1979 SC 1628 : (1979) 3 SCR 1014] and the other in Ashok Kumar Mishra v. Collector [(1980) 1 SCC 180 : AIR 1980 SC 112 : (1980) 1 SCR 491] . We may point out that in R.D. Shetty case, even though the State action was held to be unconstitutional as being violative of Article 14 of the Constitution, this Court refused to grant relief to the petitioner on the ground that the writ petition had been filed by the petitioner more than five months after the acceptance of the tender of the fourth respondent and during that period, the fourth respondent had incurred considerable expenditure, aggregating to about Rs 1.25 lakhs, in making arrangements for putting up the restaurant and the snack bar. Of course, this rule of laches or delay is not a rigid rule which can be cast in a strait jacket formula, for there may be cases where despite delay and creation of third party rights the High Court may still in the exercise of its discretion interfere and grant relief to the petitioner. But, such cases where the demand of justice is so compelling that the High Court would be inclined to interfere in spite of delay or creation of third party rights would by their very nature be few and far between. Ultimately it would be a matter within the discretion of the court; ex hypothesi every

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discretion must be exercised fairly and justly so as to promote justice and not to defeat it.

(f) In ***Maharashtra State Road Transport Corporation Vs. Shri Balwant Regular Motor Service*** reported in ***1968 SCC OnLine SC 54,*** which reads as follows:-

> *"11. In any event, we are satisfied that it is not open to the private operators including Respondent 1 to apply for a writ in the nature of certiorari for quashing the order of the RTA dated September 10/11, 1965 in view of their conduct. It is not disputed that the private operators including Respondent 1 were present in the meeting of the RTA held on September 10/11, 1965 either personally or through duly appointed Counsel. Respondent 1 and the other private operators assured the RTA at the hearing that they would withdraw the writ petitions pending in the High Court. On such assurances, and subject to the actual withdrawal of the writ petitions in terms of the assurance, the RTA considered the matter in the said meeting and after hearing the parties, made an order giving effect to the compromise. It is obvious that the private operators including Respondent 1 were parties to the order dated September 10/11, 1965, had accepted that order, acted upon it and derived benefits and advantages from it for nearly one year and 9 months. But for the said order which suspended the operation of the permit of the appellant till July 1, 1967 the private operators including Respondent 1 could not have got temporary permits to operate on the same routes as no stage carriage permits could be issued under Section 62 of the Act during the subsistence of substantive permits. In these circumstances we consider that there was such acquiescence in the RTA's order dated September 10/11, 1965 on the part of Respondent 1 and other private operators as to disentitle them to a grant of a writ under Article 226 of the Constitution. It is well-established that the writ of certiorari will not be granted in a case where there is such negligence or omission on the part of the applicant to assert his right as, taken in conjunction with the lapse of time and other circumstances, causes prejudice to the adverse party. The*

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principle is to a great extent, similar to though not identical with the exercise of discretion in the Court of Chancery. The principle has been clearly stated by Sir Barnes Peacock in Lindsay Petroleum Co. v. Prosper Armstrong Hurd. Abram Farewall, and John Kemp4 as follows:

> *"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."*

This passage was cited with approval by this Court in a recent case — Moon Mills Ltd. v. M.R. Mehar, President, Industrial court, Bombay5. In our opinion, the principle of this decision applies to the present case and since Respondent 1 and the other private operators had not even pleaded any circumstances justifying the delay or their conduct, the High Court was in error in granting a writ of certiorari in their favour."

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8. In view of the aforesaid position, this Court does not find any merit in the present Writ Petition. Accordingly, the same is dismissed. No costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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C.KUMARAPPAN J.

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