HIGH COURT OF PUNJAB AND HARYANA
Bench: Hon'ble Mr. Justice Jagmohan Bansal
Date of Decision: 07.11.2023

CWP-25132-2023

WAZIR SINGH ..... PETITIONER

Versus

GENERAL MANAGER, FCI AND ANOTHER ..... RESPONDENTS

Legislation:

Articles 226, 227 of the Constitution of India

Subject: Dismissal of a writ petition due to delay and laches. The petitioner sought to challenge various orders related to penalties imposed by the respondents, but the High Court dismissed the petition on the grounds of substantial delay in approaching the court without any plausible explanation.

Headnotes:

Delay and Laches – Discretion in Exercising Jurisdiction – Petitioner challenged various orders related to penalties imposed by respondents – High Court's discretion in cases of delay and laches – Importance of legal sustainability and manifest illegality in delayed petitions. [Para 2-3]

Legal Precedents on Delay and Laches – Emphasis on prompt approach to court for relief under Article 226 – Inordinate delay as a ground for refusal of relief. [Para 4-5]

Doctrine of Delay and Laches in Equitable Jurisdiction – High Court's duty in balancing rights protection with principles of equity – Impact of inordinate delay on relief in writ petitions. [Para 6]

Principles Governing Delay, Laches, and Acquiescence – Factors affecting the right to relief, including length of delay and developments during the intervening period. [Para 7]

Application in Present Case – Petition dismissed due to significant delay and lack of manifest illegality in impugned orders. [Para 8-9]

Decision – Dismissal of the petition due to delay and laches. [Para 11]

Referred Cases:

- Eastern Coalfields Ltd. V. Dugal Kumar, (2008) 14 SCC 295 [Para 4]
- Tilokch and Motich and v. H.B. Munshi, (1969) 1 SCC 110 [Para 5]
- Rabindranath Bose v. Union of India, (1970) 1 SCC 84 [Para 5]
- Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108 [Para 6]
- Union of India v. N. Murugesan, (2022) 2 SCC 25 [Para 7]

Representing Advocates:

Mr. Kishan Garg, Advocate for the petitioner.

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JAGMOHAN BANSAL , J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside the memorandum/chargesheet dated 08.01.2014 (Annexure P-5), penalty order dated 25.08.2014 (Annexure P-7), appellate order dated 20/23.08.2019 (Annexure P-9) and revisionary order dated 23.12.2020 (Annexure P-11).

2. On being asked, learned counsel for the petitioner except taking plea of Covid-19 failed to advance any reason for approaching this Court after 03 years from the date of cause of action.

3. No hard-and-fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after

considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. Where illegality is manifest, it cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. State cannot deprive vested right because of a non-deliberate delay.

4. In **Eastern Coalfields Ltd. v. Dugal Kumar (2008) 14 SCC 295,** supreme court has considered scope of interference in case of delay and laches. Court has held:

"24. As to delay and laches on the part of the writ petitioner, there is substance in the argument of learned counsel for the appellant Company. It is well settled that under Article 226 of the Constitution, the power of a High Court to issue an appropriate writ, order or direction is discretionary. One of the grounds to refuse relief by a writ court is that the petitioner is guilty of delay and laches. It is imperative, where the petitioner invokes extraordinary remedy under Article 226 of the Constitution, that he should come to the court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ is indeed an adequate ground for refusing to exercise discretion in favour of the applicant."

5. In **Tilokch and Motich and v. H.B. Munshi (1969) 1 SCC 110** and **Rabindranath Bose v. Union of India (1970) 1 SCC 84**, Supreme Court has ruled that even in cases of violation or infringement of fundamental rights, a writ court may take into account delay and laches on the part of the petitioner in approaching the court and if there is gross or unexplained delay, the court may refuse to grant relief in favour of such petitioner.

6. In **Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu (2014) 4 SCC 108**, Supreme Court has ruled:

'16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the

acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely, 'procrastination is the greatest thief of time' and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.'

7. In **Union of India v. N. Murugesan, (2022) 2 SCC 25**, court has observed that a neglect on the part of a party to do an act which law requires must stand in his way for getting the relief or remedy. The Court laid down two essential factors i.e. first, the length of the delay and second, the developments during the intervening period. Delay in availing the remedy would amount to waiver of such right. Relevant extracts of the judgment read as:

"20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

21. The word "laches" is derived from the Frenchlanguage meaning "remissness and slackness". It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing

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prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of thedelay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy."

8. In the case in hand, the respondents have imposed penalty of Rs.1 lakh upon petitioner and he preferred first appeal and thereafter revision before the competent authority. The revisionary authority dismissed revision on 23.12.2020.

9. From the perusal of concurrent findings of different authorities, this Court finds itself unable to form an opinion that there is manifest illegality in the impugned orders, warranting interference, ignoring delay and laches. Thus, in the absence of any plausible reason, the petition deserves to be dismissed on the ground of delay and latches.

11. Dismissed.

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