



2026:AHC-LKO:50861-DB

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW
WRIT - C No. - 5923 of 2026**

Hari Narayan Tiwari

.....Petitioner(s)

Versus

State Information Commission U.P. Thru.
Chairman And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Anil Kumar Tiwari, Ujjawal Tewari
Counsel for Respondent(s)	: Shikhar Anand

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard learned counsel appearing on behalf of the parties.
2. This is a writ petition under Article 226 of the Constitution of India wherein the petitioner has sought the following substantial relief(s):-

"i) Issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 7.8.2023 passed by learned State Information Commissioner, Lucknow i.e. opposite party No.2, contained in Annexure No.1 to this writ petition."

3. Bare perusal of the impugned order it is clear that the same had been passed on August 7, 2023. No explanation has been given with regard to delay in filing the present petition at this belated stage.
4. Although there is no doubt that no limitation has been prescribed in law for filing a Writ Petition under Article 226 of our constitution. However, when the extraordinary jurisdiction of a writ is invoked, this court is called upon to satisfy itself as to whether within a reasonable time the jurisdiction has been invoked or not.
5. Pertinently, if it is found that the writ petitioner is guilty of delay and laches, this Court can very well 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, this Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court. The Hon'ble Apex Court in the case of [Tridip Kumar Dingal and others v. State of W.B and others](#), **(2009) 1 SCC 768** has held to the following effect:

"56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under [Articles 32, 226, 227](#) or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a Patna High Court CWJC No. 6284 of 2024 dt.08-05-2024 writ is discretionary. One of the grounds for refusing reliefs under [Article 32](#) or 226 of the Constitution is that the petitioner is guilty of delay and laches.

57. If the petitioner wants to invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhumed matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide [State of M.P. v. Bhailal Bhai](#) [AIR 1964 SC 1006: (1964) 6 SCR 261], [Moon Mills Ltd. v. Industrial Court](#) [AIR 1967 SC 1450] and [Bhoop Singh v. Union of India](#) [(1992) 3 SCC 136: (1992) 21 ATC 675: (1992) 2 SCR 969]). This principle applies even in case of an infringement of fundamental right (vide [Tilokchand Motichand v. H.B. Munshi](#) [(1969) 1 SCC 110], [Durga Prasad v. Chief Controller of Imports & Exports](#) [(1969) 1 SCC 185] and [Rabindranath Bose v. Union of India](#) [(1970) 1 SCC 84]).

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose."

6. To the same effect is the Judgment of the Supreme Court in

[Karnataka Power Corportion Ltd. and another v. K. Thangappan and another](#), (2006) 4 SCC 322 whereunder it has 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 has been further held thereunder:

"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under [Article 226](#) of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if 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 opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in [Durga Prashad v. Chief Controller of Imports and Exports](#) [(1969) 1 SCC 185 AIR 1970 SC 769]. Of course, the discretion has to be exercised judicially and reasonably.

7. What was stated in this regard by Sir Barnes Peacock in Lindsay Petroleum Co. v. Prosper Armstrong Hurd [(1874) 5 PC 221: 22 WR 492] (PC at p. 239) was approved by this Court in [Moon Mills Ltd. v. M.R. Meher](#) [AIR 1967 SC 1450] and [Maharashtra SRTC v. Shri Balwant Regular Motor Service](#) [(1969) 1 SCR 808: AIR 1969 SC 329]. Sir Barnes had stated:

"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 limitation, 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 it relates to the remedy."

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.

9. It was stated in [State of M.P. v. Nandlal Jaiswal](#) [(1986) 4 SCC 566: AIR 1987 SC 251] that the High Court in 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 and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights Patna High Court CWJC No. 6284 of 2024 dt.08-05-2024 in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."

7. Having regard to the afore-stated principles of law enunciated herein above, when we turn our attention to the facts on hand, it is apparent that the Petitioner is seeking to challenge a stale order dated August 7, 2023 passed by the State Information Commission, Lucknow. We are clear in our mind that there had been an inordinate

delay of close to three years in approaching this court. The doctrine of delay and laches squarely apply to the facts of the present case and the same cannot be lightly brushed aside. We are conscious of the fact that a writ court is required to weigh the explanation offered and the acceptability of the same, bearing in mind that it is exercising an extraordinary and equitable jurisdiction. However, in the present case, we do not find any explanation to be forthcoming.

8. As a matter of fact there is not even an effort to explain the said laches. No doubt, we as a constitutional court have a duty to protect the rights of the citizens but we cannot be oblivious to the fact that we also have to 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 scrutinize whether the *lis* at a belated stage should be entertained or not.

9. For all the aforesaid reasons and primarily because no reasons nor any effort has been made by the petitioner to explain the delay in approaching this Court, the present Writ Petition is being ***dismissed as not maintainable*** on the ground of laches.

July 28, 2026
MVS/-

(Abdhesh Kumar Chaudhary,J.) (Shekhar B. Saraf,J.)