IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 01ST DAY OF FEBRUARY 2021 / 12TH MAGHA,1942

RP.No.613 OF 2018(S) IN WP(C). 29521/2013

AGAINST THE JUDGMENT IN WPC 29521/2013 OF HIGH COURT OF KERALA 4.4.2018

REVIEW PETITIONER/PETITIONER IN WPC:

INDIGENOUS PEOPLES ORGANIZATION
(REG NO.KKD.CA/406/2013),38/1408,
EDAKKAD POST,KOZHIKODE,673005,
REPRESENTED BY ITS GENERAL SECRETARY
K K GANGADHARAN.

BY ADVS.
SRI.P.CHANDRASEKHAR
SRI.K.ARJUN VENUGOPAL
SMT.V.A.HARITHA
SRI.R.NANDAGOPAL
SMT.SANDHYA R.NAIR
SRI.D.SREEKANTH
SRI.SIDHARTH B PRASAD

RESPONDENT/RESPONDENTS & Addl R8:

1 **THE UNION OF INDIA**
REPRESENTED BY THE SECRETARY
TO GOVERNMENT OF INDIA,
MINISTRY OF LAW AND JUSTICE,
NEW DELHI,PIN-110001.

2 **THE SECRETARY TO GOVERNMENT OF INDIA**
DEPARTMENT OF SOCIAL WELFARE AND
EMPOWERMENT, NEW DELHI-110001.

3 THE STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY TO
GOVERNMENT OF KERALA,SECRETARIAT,
THIRUVANANTHAPURAM-695001.

4 THE NATIONAL COMMISSION FOR
SCHEDULED CASTES AND SCHEDULE TRIBES
NEW DELHI-110001 REPRESENTED BY ITS CHAIRMAN.

5 KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS CHAIRMAN,
PATTOM, THIRUVANANTHAPURAM-695004.

6 SWAJANA SAMUDAYA SABHA
REPRESENTED BY ITS GENERAL SECRETARY,
P N SUKUMARAN, AGED 61, S/O LATE NANU,
PAYATTUKATTU HOUSE,PATTANAM,
VADAKKEKKARA.P.O,ERNAKULAM DT-683522.

7 N ASOKAN
AGED 74 YEARS,S/O T KELU,
NEDUMPARA HOUSE, NANMINDA.P.O,
KOZHIKODE DISTRICT-673613.

ADDL 8 AKHILA KERALA PULLUVAN SAMITHI (ER 951/2000)
REPREENTED BY THE GENERAL SECRETARY,
N.P. SREEDHARAN, HEAD OFFICE, ERNAKULAM.

[ADDL. R8 IMPLEADED AS PER JUDGMENT DATED 1.2.2021]

R1-2, R4 BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
R3 BY SRI. SURIN GEORGE IPE, SR. GOVT. PLEADER
R6 BY ADV. SMT.SHIBI. K.P.
R6 BY ADV. SRI.C.K.SUNIL
R7 BY ADV. SRI.M.SASINDRAN
R8 BY SRI. C.S. MANILAL

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 01.02.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.P. No. 613 of 2018
in
W.P.(C). No.29521 OF 2013 (S)

Dated this the 1st day of February, 2021

O R D E R

S. Manikumar, CJ.

Indigenous Peoples Organisation, claiming to be a registered body has filed a public interest litigation (W.P.(C). No.29521 of 2013) for the following reliefs:

> "i) Declare that Scheduled Castes Order 1950, as modified from time to time, in as much as and to the extent it includes Mannan, Vannan, Perumannan, Pulluvan, Paravan and Velan castes in Malabar area of Kerala is violative of Articles 14, 15 and 16 of the Constitution of India and therefore void and inoperative;
>
> ii) Declare that Mannan, Vannan, Perumannan, Pulluvan, Paravan and Velan castes in Malabar area of Kerala are not entitled to be included in the list of Scheduled Castes and are not entitled to the benefits due to Schedules Castes;
>
> iii) Issue a writ of mandamus or any other writ order or direction, directing the Respondents not to treat Mannan, Vannan, Perumannan, Pulluvan, Paravan and Velan castes in Malabar area of Kerala State as Scheduled Castes and not to give them benefits due to Scheduled Castes;
>
> iv) Issue a writ of mandamus or any other writ order or direction directing the Respondents to consider Exhibit P16 Petition

> submitted by the petitioner and consider and take early decision thereon in accordance with law."

2. Record of proceedings shows that certain private respondents, got themselves impleaded as additional respondents and filed counter affidavits.

3. Mr. C.S. Manilal, learned counsel representing Akhila Kerala Pulluvan Samithi, which was sought to be impleaded as a respondent in W.P(C). No.29521 of 2013, which was disposed of, without impleading the said organisation, submitted that the said organisation may also be heard before a final decision is taken in the instant Review Petition. Exercising the powers conferred under Rule 152 of the Rules of High Court of Kerala, 1971 to hear third parties, we heard him.

4. Record of proceedings further shows that when the writ petition came up for hearing on 4.4.2018, a Hon'ble Division Bench of this Court dismissed the writ petition as hereunder:

> "2. Taking note of the fact that if these prayers are granted, that will affect several persons who are not impleaded in the writ petition, this Court passed interim order, dated 11.8.2016, directing the petitioner to implead appropriate parties as respondents. That order has not been complied with, although, some parties, on there own, have come and impleaded themselves in the writ petition.
>
> Having regard to the nature of the reliefs that are sought for, we are satisfied that a judgment allowing those reliefs will

affect several persons who are not parties to the writ petition. In view of this and also on non-compliance of the order dated 11.8.2016, we dismiss the writ petition."

5. Instant Review Petition has been filed on the following grounds:

"A. While dismissing the Writ Petition this Hon'ble Court observed that the petitioners have not complied with the interim direction of the Court. The affected parties have got themselves impleaded and therefore there is substantial representation for the affected parties before this Honourable Court.

B. Organizations representing the affected parties had been allowed to come on to the party array by this Hon'ble Court and they have also filed counter affidavits contesting the averments of the writ petitioner.

C. The rights of the affected parties are substantially represented by two organisations and a member and there is substantial representation of the rights of the persons and also there is compliance of the interim direction of this Hon'ble Court dated 11.08.2016. Thus the impugned judgment sought to be reviewed is arrived at after a wrong appreciation of facts and suffers from errors apparent on the face of the record."

6. On this day, when the matter came up for further hearing, placing reliance on the decision of Hon'ble Supreme Court in **State of Maharstra v. Milind and Others** [2001 (1) SCC 4], Mr. C.S. Manilal, learned counsel submitted that the writ petition is not maintainable in

law and that Parliament alone is empowered to revise and modify the Constitution (Scheduled Caste Scheduled Tribes) Order, 1950. Attention of this Court is invited to paragraph 12 of the judgment in **Milind's** case which reads thus:

> "12. Plain language and clear terms of these Articles show (1) the President under Clause (1) of the said Articles may with respect to any State or Union Territory and where it is a State, after consultation with the Governor, by public notification specify the castes, races or tribes or parts of or groups within the castes, races or tribes which shall for the purposes of the Constitution be deemed to be Scheduled Castes/Scheduled Tribes in relation to that State or Union Territory as the case may be; (2) Under Clause (2) of the said Articles, a notification issued under Clause (1) cannot be varied by any subsequent notification except by law made by Parliament. In other words, Parliament alone is competent by law to include in or exclude a caste/tribe from the list of Scheduled Castes and Scheduled Tribes specified in notifications issued under Clause (1) of the said Articles. In including castes and tribes in Presidential Orders, the President is authorized to limit the notification to parts or groups within the caste or tribe depending on the educational and social backwardness. It is permissible that only parts or groups within them could be specified and further to specify castes or tribes thereof in relation to parts of the State and not to the entire State on being satisfied that it was necessary to do so having regard to social and educational backwardness. States had opportunity to present their views through Governors when consulted by the President in relation to castes or tribes, parts or groups within them either in relation to entire State or parts of State. It appears that the object of

Clause (1) of Articles 341 and 342 was to keep away disputes touching whether a caste/ tribe is a Scheduled Caste/Scheduled Tribe or not for the purpose of the Constitution. Whether a particular caste or a tribe is Scheduled Caste or Scheduled Tribe as the case may be within the meaning of the entries contained in the Presidential Orders issued under clause (1) of Articles 341 and 342 is to be determined looking to them as they are. Clause (2) of the said Articles does not permit any one to seek modification of the said orders by leading evidence that the caste / tribe (A) alone is mentioned in the Order but caste / tribe (B) is also a part of caste / tribe (A) and as such caste / tribe (B) should be deemed to be a scheduled Caste / Scheduled Tribe as the case may be. It is only the Parliament that is competent to amend the Orders issued under Articles 341 and 342. As can be seen from the Entries in the Schedules pertaining to each State whenever one caste / tribe has another name it is so mentioned in the brackets after it in the Schedules. In this view it serves no purpose to look at gazetteers or glossaries for establishing that a particular caste/tribe is a Schedule Caste/Scheduled Tribe for the purpose of Constitution, even though it is not specifically mentioned as such in the Presidential Orders. Orders once issued under clause (1) of the said Articles, cannot be varied by subsequent order or notification even by the President except by law made by Parliament. Hence it is not possible to say that State Governments or any other authority or courts or tribunals are vested with any power to modify or vary said Orders. If that be so, no enquiry is permissible and no evidence can be let in for establishing that a particular caste or part or group within tribes or tribe is included in Presidential Order if they are not expressly included in the Orders. Since any exercise or attempt to amend the Presidential Order except as provided in clause (2) of Articles 341 & 342 would be futile, holding any enquiry or

letting in any evidence in that regard is neither permissible nor useful."

7. It is also worthwhile to reproduce paragraph 36 of the judgment in Milind's case (supra), which is extracted:

"36. In the light of what is stated above, the following positions emerge:-

1. It is not at all permissible to hold any enquiry or let in any evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the concerned Entry in the Constitution (Scheduled Tribes) Order, 1950.

2. The Scheduled Tribes Order must be read as it is. It is not even permissible to say that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the Scheduled Tribes Order if they are not so specifically mentioned in it.

3. A notification issued under Clause (1) of Article 342, specifying Scheduled Tribes, can be amended only by law to be made by the Parliament. In other words, any tribe or tribal community or part of or group within any tribe can be included or excluded from the list of Scheduled Tribes issued under Clause (1) of Article 342 only by the Parliament by law and by no other authority.

4. It is not open to State Governments or courts or tribunals or any other authority to modify, amend or alter the list of Scheduled Tribes specified in the notification issued under Clause (1) of Article 342.

5. Decisions of the Division Benches of this Court in Bhaiya Ram Munda vs. Anirudh Patar & others (1971 (1) SCR

804) and Dina vs. Narayan Singh (38 ELR 212), did not lay down law correctly in stating that the enquiry was permissible and the evidence was admissible within the limitations indicated for the purpose of showing what an entry in the Presidential Order was intended to be. As stated in position (1) above no enquiry at all is permissible and no evidence can be let in, in the matter."

8. Based on the averments made in the counter affidavit Ms. K.P. Shibi, learned counsel for the 6th respondent submitted that on 25.6.2002, a subcommittee has been constituted by the Parliament to study the issues raised; and that the committee has submitted a report. Revised orders have been issued deleting certain communities and additions have been made to the Scheduled Castes and Scheduled Tribes Order, 1950. The relevant order is reproduced:

"KERALA GAZETTE

EXTRAORDINARY

GOVERNMENT OF KERALA

Personnel and Administrative Reforms (Rules) Department

NOTIFICATION

G.O. (P) No. 31/2016/P&ARD
Dated, Thiruvananthapuram, 15th December, 2016.

S. R. 0. No. 763/2016.– In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968), read with section 3 thereof, the Government

of Kerala hereby make the following rules further to amend the Kerala State and Subordinate Services Rules. 1958, namely:—

RULES .

1. Short title and commencement.—(1) These rules may be called the Kerala State and Subordinate Services (2nd Amendment) Rules, 2016.

(2) They shall come into force at once.

2. Amendment of the rules.--1n Part I of the Kerala State and Subordinate Services Rules, 1958,--

(1) in List I of the Schedule, under the heading 'SCHEDULED CASTES IN THE KERALA STATE',—

(a) for the entry against item 37, the following entries shall be' substituted, namely:—

"Palluvan, Pulluvan”

(b) for the entry against item 47, the following entries shall be substituted, namely:—

"Thandan (excluding Ezhuvas and Thiyyas who are known as Thandan, in the erstwhile Cochin and Malabar areas) and (Carpenters who are known as Thachan, in the erstwhile Cochin and Travancore State). Thachar (other than Carpenter)”

(2) in List III of the Schedule, under the heading 'OTHER BACKWARD CLASSES IN THE KERALA STATE', under the sub-heading

"1. Throughout the State",—

(a) the entry against item 58. “Pulluvan" shall be omitted

(b) for the entry against item 64A, the following entry shall be substituted, namely:—

'Thachar who are Carpenters"

By order of the Governor.

SATYAJEET RAJAN,
Principal Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Government have decided to amend the List I, Scheduled Castes in the Kerala State and List III, Other Backward Classes in the Kerala State specified in the Kerala State and Subordinate Services Rules, 1958 in view of the changes brought about vide Constitution (Scheduled Castes) Order (Amendment) Act, 2007 (Central Act 31 of 2007) and the Constitution (Scheduled Castes) Order (Amendment) Act, 2014 (Central Act 34 of 2014) and Resolution No. 12011/7/2014-BC-II dated: 23-1-2015.

The notification is intended to achieve the above object. ”

9. Though Scheduled Castes Scheduled Tribes Order, 1950 has been issued in the year 1950, and modified from time to time, writ petition has been filed in the year 2013, after a long period. Even taking it for granted that the members of Indigenous Peoples Organisation are affected, writ petition ought to have been filed, within a reasonable time. What is the reasonable time, is not explained.

10. There is delay and laches on the part of the petitioner undoubtedly. It is worthwhile to refer to some decisions in this regard:

"(i) In ***State of M.P., v. Bhailal Bhai*** reported in *AIR 1964 SC 1006,* the Hon'ble Supreme Court held that unreasonable delay denies to the petitioner, the discretionary extraordinary remedy of mandamus, ceriorari or other relief.

(ii) In *State of M.P., v. Nandlal Jaismal* reported in *1986 (4) SCC 566*, the Hon'ble Supreme Court, at Paragraph 24, held 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 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 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. .....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 discretion must be exercised fairly and justly so as to promote justice and not to defeat it."

(iii) In *State of Maharastra v. Digambar* reported in *AIR 1995 SC 1991,* the Hon'ble Supreme Court, considered a case, where compensation for the acquired land was claimed belatedly and at Paragraphs 12, 18 and 21, held as follows:

"12. How a person who alleges against the State of deprivation of his legal right, can get relief of compensation from the State invoking writ jurisdiction of the High Court under article 226 of the Constitution even though, he is guilty of laches or undue delay is difficult to comprehend, when it is well settled by decision of this Court that no person, be he a citizen or otherwise, is entitled to obtain the equitable relief under Article 226 of the Constitution if his conduct is blame-worthy because of laches, undue delay, acquiescence, waiver and the like. Moreover, how a citizen claiming discretionary relief under Article 226 of the Constitution against a State, could be relieved of his obligation to establish his unblameworthy conduct for

getting such relief, where the State against which relief is sought is a welfare State, is also difficult to comprehend. Where the relief sought under Article 226 of the Constitution by a person against the welfare State is founded on its alleged illegal or wrongful executive action, the need to explain laches or undue delay on his part to obtain such relief, should, if anything, be more stringent than in other cases, for the reason that the State due to laches or undue delay on the part of the person seeking relief, may not be able to show that the executive action complained of was legal or correct for want of records pertaining to the action or for the officers who were responsible for such action not being available later on. Further, where granting of relief is claimed against the State on alleged unwarranted executive action, is bound to result in loss to the public exchequer of the State or in damage to other public interest, the High Court before granting such relief is required to satisfy itself that the delay or laches on the part of a citizen or any other person in approaching for relief under Article 226 of the Constitution on the alleged violation of his legal right, was wholly justified in the facts and circumstances, instead of ignoring the same or leniently considering it. Thus, in our view, persons seeking relief against the State under Article 226 of the Constitution, be they citizens or otherwise, cannot get discretionary relief obtainable thereunder unless they fully satisfy the High Court that the facts and circumstances of the case clearly justified the laches or undue delay on their part in approaching the Court for grant of such discretionary relief. Therefore, where a High Court grants relief to a citizen or any other person under Article 226 of the Constitution against any person including the State without considering his blame-worthy conduct, such as laches or undue delay, acquiescence or waiver, the relief so granted becomes unsustainable even if the

relief was granted in respect of alleged deprivation of his legal right by the State.

18.Laches or undue delay, the blame-worthy conduct of a person in approaching a Court of Equity in England for obtaining discretionary relief which disentitled for grant of such relief was explained succinctly by Sir Barnes Peacock, long ago, in Lindsay Petroleum Co. v. Prosper Armstrong (1874) 5 PC 221) thus : "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 or 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 it relates to the remedy."

21.Therefore, where a High Court in exercise of its power vested under Article 226 of the Constitution issues a direction, order or writ for granting relief to a person including a citizen without considering his disentitlement of such relief due to his blameworthy conduct of undue delay or laches in claiming the same, such a direction, order or writ becomes unsustainable as that not made judiciously and reasonably in exercise of its

sound judicial discretion, but as that made arbitrarily."

(iv) In ***State of Rajasthan v. D.R.Laxmi*** reported in ***1996 (6) SCC 445,*** the Hon'ble Supreme Court observed that though the order may be void, if the party does not approach the Court within a reasonable time, which is always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner.

(v) In ***Chairman, U.P.Jal Nigam and another v. Jaswant Singh*** reported in ***AIR 2007 SC 924,*** the Hon'ble Supreme Court, after considering a catena of decisions, on the aspect of delay, at Paragraph 13, held as follows:

"13.....Therefore, whenever it appears that the claimants lost time or while away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the Court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted."

(vi) In ***S.S.Balu v. State of Kerala*** reported in ***2009 (2) SCC 479,*** at Paragraph 17, the Hon'ble Supreme Court held as follows:

"17. It is also well-settled principle of law that "delay defeats equity". The Government Order was issued on 15-1-2002. The appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and the State of Kerala preferred an appeal thereagainst, they impleaded themselves as party-respondents. It is now a trite law that where the writ

petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment. It is, thus, not possible for us to issue any direction to the State of Kerala or the Commission to appoint the appellants at this stage. In NDMC v. Pan Singh9 this Court held: (SCC p. 283, para 16)

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction."

(vii) In *Virender Chaudhary v. Bharat Petroleum Corporation* reported in *2009 (1) SCC 297,* the Hon'ble Supreme Court held as follows:

"The court exercises its jurisdiction only upon satisfying itself that it would be equitable to do so. Delay and/or latches, indisputably, are the relevant factors.

"15. The Superior Courts, times without number, applied the equitable principles for not granting a relief and/or a limited

relief in favour of the applicant in a case of this nature. While doing so, the court although not oblivious of the fact that no period of limitation is provided for filing a writ petition but emphasize is laid that it should be filed within a reasonable time. A discretionary jurisdiction under Article 226 of the Constitution of India need not be exercised if the writ petitioner is guilty of delay and latches."

Some of the decisions considered by the Hon'ble Apex Court in Virender Chaudhary's case (cited supra), are reiterated as follows:

"16. In Uttaranchal Forest Development Corporation and Anr. v. Jabar Singh and Ors. [(2007) 2 SCC 112], this Court held:

"It is not in dispute that the effective alternative remedy was not availed of by many of the workmen as detailed in paragraphs supra. The termination order was made in the year 1995 and the writ petitions were admittedly field in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of latches."

17. In New Delhi Municipal Council v. Pan Singh and Ors. [(2007) 9 SCC 278], this Court held:

"16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by

the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. (See Govt. of W.B. v. Tarun K. Roy [(2004) 1 SCC 347], U.P. Jal Nigam v. Jaswant Singh [(2006) 11 SCC 464] and Karnataka Power Corpn. Ltd., v. K.Thangappan [(2006) 4 SCC 332])

17. Although, there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time. (See Lipton India Ltd. v. Union of India [(1994) 6 SCC 524] and M.R.Gupta v. Union of India [(1995) 5 SCC 628])

(viii) In ***Chennai Metropolitan Water Supply and Sewerage Board v. T.T.Murali Babu*** reported in ***2014 (4) SCC 108***, at Paragraphs 16 and 17, held as follows:

"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 scrutinize 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.

17. 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."

11. From the counter affidavits of additional respondents it could

be deduced that a Subcommittee has been constituted by the Parliament and based on the report, there is also deletion and addition of certain communities mentioned in the (Scheduled Cast Scheduled Tribes) Order, 1950. No grounds of error or other legal infirmities apparent on the face of record is made out justifying review of the judgment in W.P(C). No.29521 of 2013 dated 4.4.2018. Review Petition fails, accordingly it is dismissed.

Sd/-
S. Manikumar,
Chief Justice

Sd/-
Shaji P. Chaly,
Judge

sou.

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A: **TRUE COPY OF THE I.A. No.8655 OF 2017 IN W.P.(C).No.29521 OF 2013 OF THIS HON'BLE COURT.**