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**Court :** Rajasthan

**Decided On :** Feb-02-1978

**Reported in :** 1978WLN(UC)37

**Judge :** D.P. Gupta, J.

**Appeal No. :** S.B. Civil Writ Petition No. 69 of 1978

**Appellant :** Deepa Ram

**Respondent :** State and ors.

**Disposition :** Petition dismissed

**Judgement :**

**D.P. Gupta, J.**

1. I have heard learned Counsel for the petitioner. The petitioner was Sarpanch of Gram Panchayat, Baran Khurd in the year 1962-63. On March 11, 1969, a copy of the charge sheet was given to the petitioner under Sub-rule (2) of Rule 2 of the Rajasthan Panchayat and Nyaya Panchayat (General) Rules, 1961 (hereinafter referred to as 'the Rules'). The petitioner submitted a statement of his defence and after making an enquiry, the State Government by its order dated March 22, 1973 recorded a finding against the petitioner in respect of his term of office as a Sarpanch. As the enquiry was initiated after the term of office of the petitioner had

expired, the State Government recorded a finding in 'accordance' with the proviso to Sub-section 4 of Section 17 of the Rajasthan Panchayat Act (hereinafter referred to as 'the Act') to the effect that the charges levelled against the 'petitioner' were proved. The petitioner preferred a review application under the provisions of Section 70-B of the Act, but the said review application was ultimately dismissed by the State Government on 18-7-1975. The petitioner did not take any further proceedings in the matter. Now, in this writ petition the grievance of the petitioner is that he is not being allowed to take part in the elections for the office of Sarpanch of Gram Panchayat Baran Khurd which are going to take place shortly. The contention of the learned Counsel is that the petitioner is not disqualified and that he should be allowed to take part in the aforesaid elections. It is not possible to accept this contention of the learned Counsel as Sub-section (4B) of Section 17 of the Act clearly provides that a person against whom a finding has been recorded under the proviso to Sub-section (4) of Section 17 shall not be eligible for reelection under the Act for a period of five years from the date on which such finding was recorded. In this case, the findings were recorded against the petitioner under the proviso to Sub-section (4) of Section 17 of the Act on March 22, 1973 and as the period of five years had not elapsed since then the petitioner is not eligible for reelection under the Act.

2. Learned Counsel then submitted that the findings recorded by the State Government on March 22, 1973 were invalid and should be quashed. The argument is that mere delay is of no consequence and the petitioner can challenge the finding recorded by the State Government against him at anytime, as it interferes with the fundamental rights of the petitioner. I am unable to accept this contention as well. As already mentioned above, the findings under the proviso to Sub-section (4) of Section 17 of the Act were recorded as back as on March 22, 1973 and a review petition preferred by the petitioner under Section 70-B was dismissed on July 8, 1975. Sub-section (5) of Section 17 provides that the decision of the State Government on any matter arising on any subject matter made under that section, subject to any decision made under Section 70-B; shall be final and shall not be liable to be questioned in any court of law. The findings recorded by the State Government against the petitioner on March 22, 1973 entailed the disqualification as provided in Sub-section (4B) of Section 17, namely, that the

petitioner would not be eligible for seeking re-election under the Act for a period of five years from the date when such findings were recorded. The disqualification having come into operation and the petitioner having not cared to challenge the findings recorded by the State Government for a long period, I am unable to interfere with the findings recorded under the proviso to Sub-section (4) of Section 17 after the lapse of such a long time. The petitioner was a Sarpanch of the Gram Panchayat and he should have very well known when the findings under the proviso to Sub-section (4) of Section 17 of the Act were recorded against him and when the review petition under Section 70-B was dismissed that he has incurred the disqualification and that he would not be able to seek re-election for a period of live years from the date when such findings were recorded against him. The petitioner should have moved this Court with the utmost expedition and no justification or explanation for the delay has been furnished by the petitioner. The petitioner has relied upon the decision of their Lordships of the Supreme Court in Ramchandra Skanker Deodhar and Ors. v. State of and Ors. : (1974)ILLJ221SC , in support of his contention that the rule that a court may not inquire into belated or stale claims is not a rule of law but is a rule of practice and has urged that this Court should interfere in. the present case. It may be observed that in, Deodhar's case : (1974)ILLJ221SC , their Lordships of the Supreme Court were pleased to observe that the question whether delay is sufficient to disentitle a petitioner to an relief tinder Article 226 of the Constitution is, a matter for discretion of, the Court and it would depend on the facts of each case whether the Court should exercise its discretion in favour of the petitioner or not. In Deodhar's case, their Lordships of the Supreme Court came to the conclusion that in the facts and circumstances of that case, the delay was not very material as the case related to the promotion, of Government employees and it was the admitted position that even if the petitioner was allowed the relief claimed by him, it would not result in the reversion of any official and as such, the rights of any other person were not likely to be disturbed Another decision relied upon by the learned Counsel is Ramanlal Keshaolal Soni and Ors. v. State of Gujarat and Ors. (2), which follows Deodhar's case : (1974)ILLJ221SC . The aforesaid decisions are not applicable to the facts of the present case.

3. I am of the view that in matters of election to a public office, a person cannot be entitled to sit back and delay for an unlimited period of time could not be overlooked. A petitioner cannot be allowed to choose to his own time and without offering any explanation for the delay. In my view, the delay in the present case is considerable and the petitioner is disentitled to any relief from this Court on account of his laches. Therefore the writ petition is dismissed.

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