

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13470 of 2015

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Pravin Kumar Yadav S/o Prabhu Narayan Yadav, resident of village-
Raniwari, P.S. Gogari, District-Khagaria

.... Petitioner/s

Versus

1. The State of Bihar through the Registrar, Co-operative Societies, Bihar, Patna
2. The Bihar State Election Authority, Bihar, Patna
3. The Registrar, Co-operative Societies, Bihar, Patna
4. Joint Registrar, Co-operative Societies, Bihar, Patna
5. Returning Officer cum Block Development Officer, Gogari, P.S. Gogari, District-Khagaria
6. Presiding Officer, Booth No. 24 K, Maira Badiya PACS, Block+P.S. Gogari, District-Khagaria
7. Maira Badiya Primary Agriculture Cooperative Society Limited, Block-Gogari, District-Khagaria
8. Ghanshyam Mandal, elected Chairman, S/o Jamun Mandal, resident of village-Maira, P.S. Gogari, District-Khagaria
9. Nityanand Yadav, S/o Lakshmikant Yadav, elected members of managing committee, of village-Raniwari, P.S. Gogari, District-Khagaria
10. Bechan Chaudhary, S/o Bateshwar Chaudhary, elected members of managing committee, of village-Raniwari, P.S. Gogari, District-Khagaria
11. Phulan Sada, S/o Anuplal Sada, elected members of managing committee, of village-Raniwari, P.S. Gogari, District-Khagaria
12. Shyamanand Singh, S/o-Shivdhari Singh, elected members of managing committee, of village-Maira, P.S. Gogari, District-Khagaria
13. Sanjo Devi, W/o Babulal Sada, elected members of managing committee, of village-Maira, P.S. Gogari, District-Khagaria
14. Rajendra Yadav, S/o Chhedi Yadav, elected members of managing committee, of village-Maira, P.S. Gogari, District-Khagaria
15. Shailendra Yadav, S/o Dholi Yadav, elected member of managing committee, of village-Lakshminia, P.S. Gogari, District-Khagaria
16. Sita Devi, W/o Nago Yadav, elected member of managing committee, of village-Lakshminia, P.S. Gogari, District-Khagaria
17. Kaushalya Devi, S/o Garib Muni, elected member of managing committee, of village-Lakshminia, P.S. Gogari, District-Khagaria
18. Shobha Devi, W/o Chhathu Singh, elected members of managing committee, of village-Lakshminia, P.S. Gogari, District-Khagaria

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Lakshmi Kant Tiwary, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

4 01-09-2015 Heard Mr. Ujwal Kumar Sinha, learned counsel appearing on behalf of the petitioner, learned counsel for the State and learned counsel for the State Election Authority.

The petitioner is aggrieved by the order dated 09.7.2015 passed by the Joint Registrar in Election Petition No. 17 of 2015 whereby the election petition has been dismissed on grounds of limitation.

It is the case of the petitioner that the petitioner was bonafidely pursuing his remedy albeit before a wrong forum inasmuch as instead of filing an election petition, that he chose to file a writ petition through CWJC No. 487 of 2015 and which was disposed of on 20.2.2015 on the prayer of the petitioner to enable him to pursue the lawful remedy. He submits that it is within a month of disposal of the writ petition on 20.2.2015 that an election petition was filed on 19.3.2015 but has been dismissed for having been filed beyond the limitation prescribed under Section 14A (6) of the Bihar Co-operative Societies Act, 1935 read with Rule 21X of the rules framed thereunder.

Learned counsel appearing for the petitioner relying upon the provisions of Section 14 of the Limitation Act submits that since the petitioner was bonafidely pursuing his remedy

before a wrong forum that such period needs to be excluded but has not been done so by the petitioner. Learned counsel has relied upon a decision of this Court reported in **2003(2) 647 (Vijay Kumar vs. State)** to submit that in similar circumstances the Division Bench had allowed the petitioner to take recourse to the lawful remedy.

The arguments have been contested by Mr. Mukesh Kumar Thakur appearing for the State Election Authority and relying upon the Division Bench judgment of this Court reported in **1995(1) PLJR 396 (Sitaram Sah vs. State)**, it was submitted that the delay in filing an election petition cannot be condoned for the provisions of the Limitation Act are held not applicable to the election disputes raised before the statutory authorities under the Co-operative Societies Act, 1935 *inter alia* on grounds that they do not fall within the meaning of a court. The judgment in Sitaram Sah (supra) was in context with an election dispute arising from the Co-operative Societies Act.

In the circumstances discussed and in view of the law laid down by this Court in the case of Sitaram Sah (supra), I find no reasons to interfere with order impugned and the writ petition is accordingly disposed of.

(Jyoti Saran, J)

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