

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 417 of 2016

Chumman Lal Sahu S/o Genduram Sahu, Aged About 51
Years R/o Vill Bothali (Wrongly Written As Moghali), Tah
Gurur, Distt. Balod (Chhattisgarh)

---- Petitioner

Versus

1. Bhupat Singh S/o Mohan Lal Sahu, R/o Basin, Tah. Gurur,
Distt. Balod, (Chhattisgarh)
2. Onkar Singh Thakur, S/o Ghanshyam Thakur, R/o Khundani,
Tah Gurur, District Balod Chhattisgarh
3. Sewa Sahakari Samittee Maryadit, Basin Tah Gurur, District
Balod Chhattisgarh
4. Kamlesh Singh Nigam R/o Riturning Officer Sewa Sahakari
Samittee Maryadit, Basin Ewam Gramin Krishi Vistar Adhikari,
Basin, Tah Gurur, District Balod Chhattisgarh (Now Dead)

---Respondents

Mr. B.P. Gupta, Advocate and Ms. Richa Jain, Advocate for the
petitioner.

None for the respondents though served.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

18/04/2016

Heard.

This petition is directed against order dated 26.08.2015
(Annexure P/1) passed by the Tribunal whereby the Tribunal has
dismissed the appeal on the ground that the appellant has failed to
take necessary steps for service of notice by paper publication.

2. Learned counsel for the petitioner submits that substantial
issues were raised in the appeal. It is further submitted that an order
was passed to serve respondents by way of publication but there was

communication gap and the petitioner could not be contacted by the counsel which led to failure to pay necessary expenses for publication. The Tribunal ought to have awarded one more opportunity to take necessary steps. Dismissal of the case without decision on merits has resulted in miscarriage of justice.

3. The appeal arises out of dispute relating to election. The order passed by the Tribunal shows that the appeal has been dismissed holding that the appellant has not taken steps to get notices served by paper publication.

4. The explanation which has been offered by the petitioner in this petition appears to be sufficient. The delay appears to have taken place because of lack of communication between the parties and the counsel. Therefore, in these circumstances, in the larger interest of justice to ensure that the appeal is decided on merits rather than dismissed on technical ground, impugned order is set aside. The matter is remanded to the Tribunal. The appellant shall take necessary steps for service of notice by way of paper publication by payment of necessary expenses within a period of 30 days from today. If that is not done, the Tribunal shall be free to proceed against the petitioner for non-compliance.

5. The petition is accordingly allowed.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E