

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 61 of 2016**

Rajendra Singh S/o Charku, Aged About 40 Years R/o Village -
 Auranga, Janpad Panchayat - Ramchandrapur, District - Balrampur-
 Ramanujganj (Chhattisgarh).....(Return Candidate)

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Sub-Divisional Officer (Revenue) / Prescribed Authority (Panchayat), Ramanujganj, District - Balrampur-Ramanujganj, District - Balrampur - Ramanujganj (Chhattisgarh).
3. Baldev Singh, S/o Late Ramprasad Singh, Aged About 50 Years R/o Village - Auranga, Janpad Panchayat - Ramchandrapur, District - Balrampur - Ramanujganj (Chhattisgarh).....(Election Petitioner).
4. Fagu Singh, S/o Jaddu Singh, Aged About 32 Years R/o Village - Auranga, Janpad Panchayat - Ramchandrapur, District - Balrampur - Ramanujganj (Chhattisgarh).
5. Keshwar Singh, S/o Arjun Singh, Aged About 45 Years R/o Village - Auranga, Janpad Panchayat - Ramchandrapur, District - Balrampur - Ramanujganj (Chhattisgarh).
6. Heera Singh, S/o Ramnath Singh, Aged About 55 Years R/o Village - Auranga, Janpad Panchayat - Ramchandrapur, District - Balrampur - Ramanujganj (Chhattisgarh).
7. Ramlakhan Singh S/o Rameshwar Singh Aged About 45 Years R/o Village - Auranga, Janpad Panchayat - Ramchandrapur, District - Balrampur - Ramanujganj (Chhattisgarh).
8. Bichetar Pando S/o Chaitu Pando, Aged About 50 Years R/o Village - Auranga, Janpad Panchayat - Ramchandrapur, District - Balrampur - Ramanujganj (Chhattisgarh).
9. Sohrai, S/o Mahavir Aged About 45 Years R/o Village - Auranga, Janpad Panchayat - Ramchandrapur, District - Balrampur - Ramanujganj (Chhattisgarh).
10. Manishankar Yadav, Presiding Officer, Teacher, Middle School, Salwahi, District - Balrampur - Ramanujganj (Chhattisgarh)
11. Virendra Kumar Gupta, Presiding Officer, Posted As Teacher, Middle School Sitghar Barwahi, District - Balrampur - Ramanujganj (Chhattisgarh).

12. The Returning Officer, Janpad Panchayat Ramchandrapur, District - Balrampur - Ramanujganj (Chhattisgarh).

13. The District Returning Officer, District - Balrampur - Ramanujganj (Chhattisgarh). **---- Respondents**

For Petitioner	:	Mr. D. N. Prajapati, Advocate
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer
For Respondent No.3	:	Mr. Sushil Dubey, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Oral Order

27/04/2017

With the consent of the parties, the matter is heard finally.

1. The short issue arises for consideration in this petition as to whether the delay in filing election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short 'the Act of 1993') could be condoned.
2. Admittedly, the election to the office of Sarpanch of Gram Panchayat Auranga was held on 28.01.2015 and the election was notified on 31.01.2015. The election petition was filed by respondent No.3 on 13.03.2015 before the prescribed authority. Apparently, the election petition was filed beyond the period of limitation of 30 days to be counted from the date on which the election was notified.
3. Learned counsel for the petitioner submits that though number of grounds have been raised in the petition, the writ petition deserves to be allowed only on the ground that the election petition is not maintainable, the same having been filed beyond the period of limitation of 30 days from the date on which the election was notified. Reliance has been placed on order passed by this Court in WPC No.1689 of 2015 (**Sanjay Singh Vs. Shobhnath Agariya & others**) decided on 23.11.2015 and decision of the High Court of Madhya Pradesh in the case of **Kalka Prasad Vs. Ramji Lal and others, 2002 (3) M.P.L.J. 121**.
4. Learned counsel for the respondent could not satisfy this Court by placing before this Court any other decision or the statutory provision

under the Panchayat Raj Adhiniyam or Rules made thereunder including Rules relating to filing of election petition that if an election petition is filed beyond the prescribed period of 30 days, the Tribunal or in any other Court would have power to condone delay in filing election petition.

5. Relying upon the judgment of Madhya Pradesh High Court in the case of *Kalka Prasad (supra)*, this Court in the case of *Sanjay Singh (supra)* categorically held that an election petition filed beyond the period of limitation prescribed under Section 122 of the Act of 1993 could not be entertained as the same is not cognizable by the Election Tribunal as there is express bar for taking cognizance of the election petition after expiry of period of 30 days and that in view of express bar, the provisions of the Limitation Act for condonation of delay stands excluded from its application to an election petition under Section 122 of the Act of 1993.
6. Result of the case is thus foregone that the election petition is not maintainable. Therefore, the entire proceeding drawn by the prescribed authority in the matter of election petition filed by the respondent No.3 against the petitioner are held illegal and without jurisdiction and is set aside.
7. The petition is accordingly allowed.

Sd/-

(Manindra Mohan Shrivastava)

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