

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2494 of 2017

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Pinki Devi W/o Santosh Ram, R/o Village & P.O.- Hasanpur Circle & P.S.-
Hasanpur, District- Samastipur.

.... Petitioner

Versus

1. The District Election Officer-cum- District Collector, Samastipur
2. The District Election Officer-cum-District Collector, Samastipur.
3. The Block Election Officer-cum-Block Development Officer, Hasanpur, District-
Samastipur.

.... ... Respondents 1st set

4. Sita Devi W/o Shiv Kumar Baitha R/o Village & P.O.- Hasanpur, Circle & P.S.-
Hasanpur, District- Samastipur.

.... Respondent 2nd Set

5. Anju Devi W/o Balvir Paswan.
6. Asha Devi W/o Mahavir Paswan
7. Pawan Devi W/o Bino Paswan
8. Meera Devi W/o Puran Paswan

All Residents of Village- Kokani, P.O.- Hasanpur Sukan Mills, P.S.- Hasanpur,
District- Samastipur.

9. Reena Kumari W/o Ranbeer Kumar Malhotra.

10. Lalita Kumari W/o Sunil Ram

Both residents of Village- Karsauli, P.O.- Hasanpur Sugar Mills, P.S.- Hasanpur,
District- Samastipur.

11. Geeta Devi W/o Tarni Paswan

12. Phulgam Devi W/o Tarni Paswan

Both Resident of Village & P.O.- Hasanpur, tole- Gosai Math, P.S- Hasanpur,
District- Samastipur.

13. Jaymala Devi W/o Lakhana Sada

14. Bimla Devi W/o Arjun Sada

Both resident of Village & P.O.- Hasanpur, tole-Mushari, P.S- Hasanpur, District-
Samastipur.

.... Respondents 3rd Set

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Advocate

For the Respondent-SEC : Mr. Amit Shrivastva, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 20-06-2018



This writ petition on behalf of the petitioner has been filed for quashing the order dated 02.01.2017 passed in Election Petition No.14 of 2016 by the learned Munsif, Rosera whereby and whereunder the election petition of the petitioner was rejected as it was not filed within thirty days from the declaration of the election results.

2. Mr. Binod Kumar Singh, learned counsel for the petitioner submitted that the learned Munsif passed the impugned order without appreciating that every Court/Tribunal/Authority has inherent power to look into the fraud committed by any party. According to him, the learned Munsif ought not to have been dismissed the election petition on the ground of limitation and he ought to have considered the case of the petitioner on merits.

3. Though, a copy of the petition has not been served upon the respondents, Mr. Amit Shrivastava, learned counsel for the State Election Commission, who is present in the Court after seeking leave of the Court submitted that the submissions made by the learned counsel for the petitioner are misconceived in view of the fact that Rule 106 of the Bihar Panchayat Election Rules, 2006 (for short 'Rules') stipulates that an election petition against any elected candidate can be filed under Section 137 of the Bihar Panchayat Raj Act before the prescribed authority within thirty days



from the date of declaration of the election results and the Bihar Panchayat Raj Act being a complete Code in itself and there being special procedure in the Rules made under the Act, the Limitation Act will have no application.

4. I have heard learned counsel for the parties and perused the record.

5. It is an admitted case of the petitioner that he has contested the election of Mukhiya of Gram Panchayat Hasanpur, which was held on 28.04.2016 and the result of which was declared on 04.06.2016. He filed election petition under Section 137 of the Bihar Panchayat Raj Act on 23.11.2016 i.e. almost after six months of the declaration of the result.

6. Rule 106 of the Bihar Panchayat Election Rules, 2006 deals with the procedure for filing an election petition. Sub-rule (1) of Rule 106, which would be relevant in the instant case reads as under:-

“106 Election Petition.-

(1) An election petition against any elected candidate may be filed under section 137 of the Act before the prescribed Court of Law within thirty days from the date of declaration of the election results.”

7. It would be manifest from a reading of sub-rule



(1) of Rule 106 that an election petition shall lie before the prescribed court of law under Section 137 of the Act against any elected candidate and such petition has to be filed within thirty days from the date of declaration of the election results.

8. It is well settled that when the legislative intent is indicated by the provisions of special laws that excludes the provisions of Limitation Act, the Court/Tribunal/Authority cannot exercise its power to condone the delay. Since the Rules framed under the Act stipulates for filing an election petition within thirty days from the date of the publication of results, the learned Munsif, Rosera rightly refused to condone the delay of about six months caused in filing the election petition and dismissed the same.

9. In view of the discussions made above, I see no illegality in the impugned order passed by the learned Munsif. The writ petition being devoid of any merit is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.06.2018
Transmission Date	NA

