

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 13624 of 2011

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Jaydev Samajdar S/O Shri Basudev Samajdar R/O Vill.-Subhash Palli, P.O.
Distt.-Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Panchayat Raj, Government of Bihar, Patna
2. The Director, Panchayat Raj, Govt. Of Bihar, Patna.
3. The District Magistrate-Cum-Collector, Kishanganj.
4. The S.D.O. Kishanganj.
5. The B.D.O. Thakurganj.
6. The Gram Panchayat Tatpoua Through Its Secretary Under Thakurganj Block, In The Distt. Of Kishanganj.
7. The Secretary, Tatpoua Gram Panchayat Under Thakurganj Block, In The Distt. Of Kishanganj.
8. The Gram Kachahari Tatpoua Through Its Sarpanch Under Thakurganj Block In The Distt. Of Kishanganj.
9. The Sarpanch, Gram Kachahri, Tatpoua Under Thakurganj Block In The Distt. Of Kishanganj.
10. Arvind Kumar Shrivastawa S/O Late Daya Shankar Saran R/O Rohidhasa, Hanuman Nagar, P.S. Kishanagnj, In The Distt. Of Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr D K Sinha, Sr Advocate with M/s Ashish Kr Ghosh, Bajrangi Lal, Alexander Ashok, Advocates
For the Respondent/s	:	Mr. Vinay Kriti Singh Sc5
For Respondent No 10	:	M/s Pankaj Kr Sinha, Kamal Kishore Jha, Advs

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 02-09-2019

Heard learned counsel for the petitioner, State and the private respondent.

2 Issue raised in the instant proceeding is of appointment of Gram Kutchery Nyay Mitra. Petitioner has



assailed the orders passed by the Subdivisional Magistrate, Kishanganj dated 23.06.2009 whereby his selection as Nyay Mitra has been interfered with by the Subdivisional Magistrate. Petitioner, thereafter, has moved the Court of Collector, Kishanganj. Petitioner's appeal has been rejected on 07.07.2011.

3 It is submitted by learned Senior Counsel for the petitioner that in spite of due opportunity, respondent No 10 failed to produce his educational testimonials and certificates and, therefore, the petitioner, who was admittedly lower in the panel prepared for selection, was offered the Niyojan which was made in his favour on 12.04.2008 after verifying documents.

4 Learned counsel for respondent No 10, on the other hand, submits that selection of respondent No 10 had already been done on 11.04.2008. The Authorities, thereafter, extended undue favour to the petitioner by issuing orders in favour of his selection on 12.04.2008 without cancelling the petitioner's earlier selection on 11.04.2008. It is these issues which have been raised before the Authorities and considered by them.

5 Learned Senior Counsel for the petitioner further submits that the Rule under which respondent No 10 had availed remedy, namely, Bihar Gram Kutchery Nyay Mitra (Niyojan, Sevashart evam Kartavya) Niyamawali, 2007 (for brevity, 2007



Rules) provides a limitation of three days from the date of selection/Niyojan for submitting a complaint before the Subdivisional Magistrate. Respondent No 10 submitted his complaint much thereafter. In the instant case, appeal has been filed four months after the selection of the petitioner. Neither the Subdivisional Magistrate nor the District Magistrate, while passing the appellate order dated 07.07.2011, has considered whether respondent No 10 had made out a case for invoking their jurisdiction beyond the period of limitation prescribed under the 2007 Rules.

6 On going through the appellate order passed by the District Magistrate, Kishanganj, this Court finds that the issue regarding limitation and condonation by the Subdivisional Magistrate has not been considered though submissions to this respect have been taken note of in the order dated 07.07.2011.

7 Such non-consideration of the submissions strikes at the root of exercise of the jurisdiction and, as such, this Court would observe that the District Magistrate, Kishanganj, should record a finding on this aspect of the matter having regard to the records of the proceedings before the Subdivisional Magistrate.



8 Petitioner and respondent No 10, in order to facilitate such consideration, should present themselves before the District Magistrate, Kishanganj within four weeks from today.

9 In the event, they appear, the District Magistrate, Kishanganj should proceed to consider the issue of exercise of jurisdiction by the Subdivisional Magistrate having regard to the provisions providing for limitation under 2007 Rules and dispose of the matter after due opportunity to the parties in accordance with law.

10 The final order should be passed by the District Magistrate expeditiously, without any undue delay and the petitioner and respondent No 10 appearing before the District Magistrate.

11 Since the order dated 07.07.2011 has been passed without considering the aforesaid issue, the same is quashed.

12 Writ petition is allowed with the aforesaid observations and directions.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.09.2019
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