

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.111 of 2020

In
Civil Writ Jurisdiction Case No.8667 of 2019

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The Bihar State Cooperative Bank Limited, Ashok Raj Path, Patna- 4 through
its Deputy General Manager (legal).

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Cooperative Department,
Government of Bihar, Patna.
2. The Registrar Cooperative Societies, Bihar, Patna.
3. The Deputy Registrar (Head Quarter) Cooperative Societies, Bihar, Patna.
4. The Bihar Cooperative Fedration Limited Budh Marg, Patna through its
Managing Director/ Chief Executive Officer.
5. The Chairman, Bihar Cooperative Federation Limited, Budh Marg, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Rakesh Kumar Jha, Adv.
For the Respondent/s : Mr. A.K. Dubey, AC to AAG-11
For Respondents No. 4 & 5: Mr. Santosh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

5 27-04-2022 Aggrieved by the order passed by the Deputy

Registrar, Co-operative Societies, Bihar, Patna, the petitioner
preferred an appeal before the Registrar, Co-operative Societies,
Bihar, Patna.

This was due to the fact that an award dated 4.7.2016
was passed by Dy. Registrar holding the Appellant liable to pay
federation levy. As the matter came up for hearing before the
Registrar, Co-operative Societies, he dismissed the same on the



ground that the same is barred by limitation. The petitioner preferred a writ petition before this Court. The learned Single Judge has decided the matter, operative part whereof reads as under:-

“In the aforesaid cases, reference of Hukumdev Narain Yadav vs. Lalit Narain Mishra, reported in 1974 AIR SC 480 has also been taken wherein the Supreme Court, while dealing with the provision relating to election petition under the Representation of People Act, 1951 held that the provision of Section 5 of the Limitation Act is not applicable to election petition.

Though this is not an election petition and according to the contention of the petitioner, the condonation application was not preferred under the Limitation Act but under the Code of Civil Procedure, this Court finds no anomaly with the order passed by the Registrar Cooperative Societies. The argument raised on behalf of the petitioner that the condonation petition was not filed under the Limitation Act but only under the Code of Civil Procedure is absolutely untenable.

For the aforesaid reasons, this Court is of the view that no interference is required to be made with the order impugned.”

The learned Single Judge relying upon a judgment of **Hukumdev Narain Yadav** (supra) felt that Limitation Act is not



applicable under the Representation of People Act, 1951. We, however, find that the present is not a case under the Representation of People Act. It is a pure and simple case of demand of some levy. The learned Single Judge also observed that the petitioner has not filed application for condonation of delay under the proper provision. We are of the considered view that mention of a wrong provision does not take away the power of the Court to pass appropriate orders if origin of the power can be traced in any statute.

Even the learned counsel appearing for the respondents has no serious objection if the matter is remitted back to the same authority for taking decision afresh.

Under the circumstances, we hereby set aside the order passed by the learned Single Judge and remit the matter back to the same authority to take decision afresh expeditiously.

Accordingly, the present writ petition stands allowed in the aforesaid terms.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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