

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3151 of 2021

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Jaydev Samajdar @ Jaydeb Samajdar son of Shri Basudev Samajdar resident
of Village- Subhash Palli, P.S. and District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar,
Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Kishanganj.
5. The District Panchayati Raj Officer, Kishanganj.
6. The Sub- Divisional Officer (SDM), Kishanganj.
7. The Sub- Divisional Officer (SDM), Thakurganj Kishanganj.
8. The Gram Panchayat, Tatpoua through its Mukhiya, Thakurganj Block,
Kishanganj.
9. The Secretary Gram Panchayat, Tatpoua Thakurganj Block, Kishanganj.
10. The Gram Kachahari through its Sarpanch, Gram Panchayat, Tatpoua
Thakurganj Block, Kishanganj.
11. The Sarpanch, Gram Kachahari, Tatpoua Gram Panchayat, Thakurganj
Block, Kishanganj.
12. Arvind Kumar Srivastava son of Late Daya Shankar Sharan resident of
Moh.- Rohidhasa Hanuman Nagar, P.O., P.S. and District- Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Bajarangi Lal, Ashish Kr Ghosh, Advocates
For the Respondent/s	:	Mr S Raza Ahmad, AAG V
		Mr Raj Kumar, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 24-08-2022

Heard learned counsel for the petitioner and the respondents.

2 The petitioner has assailed the impugned order passed by the District Magistrate, Kishanganj whereby the complaint submitted by private Respondent No 12 with respect to the petitioner's selection as Gram Panchayat Nyaya Mitra has been entertained. Submission is that in terms of the Rules under which the complaint has been made, namely, the Bihar Gram Katchahry Nyaya Mitra Rules, 2007 (for brevity, *2007 Rules*), there is a limitation prescribed for filing complaint within 30 days from the date of selection whereas the admitted position is that the petitioner's selection was done on 12.04.2008 and the complaint has been made on 19.08.2008, i.e. after four months. There being no provision for condonation of delay under the 2007 Rules, the order of the District Magistrate, accepting the complaint beyond 30 days, is unsustainable.

3 This Court has gone through the order of the District Magistrate and the various documents placed on record in the writ proceedings including the proceedings of the Selection Committee



dated 12.04.2008 on which the petitioner's counsel places reliance. It is obvious from a reading of the documents that on 11.04.2008, private Respondent No 12 was selected. In the month of August, 2008 when the details of beneficiaries entitled to honorarium for discharge of the functions of Nyaya Mitra was forwarded by the Block Development Officer that Respondent No 12 came to know that in his place, petitioner had been appointed. It is in these circumstances that the complaint has been filed thereafter.

4 This Court is not inclined to accept the submission of the petitioner's counsel that even if the petitioner had clandestinely obtained appointment on 12.04.2008 ignoring the selection of Respondent No 12 dated 11.04.2008, behind the back of Respondent No 12, he was estopped from raising the complaint.

5 This Court would also consider the manner in which the petitioner's selection has been done, which is obvious from the proceedings dated 12.04.2008, which contains two signatures of the Chairman -cum- Sarpanch, bearing two different dates. It is apparent that petitioner's selection was done illegally, regarding which the Respondent No.12 had no information. On the contrary, Respondent No.12 was under the impression that on 11-04-2008, he had been selected. Ignoring his said selection, the petitioner was selected clandestinely on 12-04-2008 and, therefore, the petitioner



came to know about this fact only when the name of Respondent No.12 was included in the details of beneficiaries forwarded by the Block Development Officer for the purposes of payment of honorarium. The relevant provision in the 2007 Rules regarding filing of complaint is Rule 12, which reads as follows:-

“12. Complaint.- Any complaint regarding employment of Nyaya Mitra of Gram Katchahry on contract basis may be filed before the concerned Sub-Divisional Magistrate within 30(thirty) days of such employment under these Rules, Sub- Divisional Magistrate shall be competent to take decision on the complaint received. Sub- Divisional Magistrate concerned shall give his decision on the complaint received not later than 30 days.”

6 The same does prescribe a limitation of 30 days for making a complaint in respect of any contractual selection of Gram Katchahry Nyaya Mitra. The limitation, however, is 30 days from “such employment”. It is, thus, relevant to consider Rule 6 (16) of the 2007 Rules which provides as follows:-

“6 (16) The letter (Schedule-II) for employment on contract basis to the candidates selected by the Samiti for Gram Katchahry will be sent by the Secretary of the Gram Katchahry after verification of the certificates. Joining will be accepted on the basis of consent letter (Schedule-III).”

7 In view of these two provisions of 2007 Rules, it is apparent that the complaint against contractual employment as Gram Katchahry Nyaya Mitra is to be made within 30 days from



employment, and the employment is completed only when joining has been accepted and the contract of employment executed.

8 The petitioner has not placed on record acceptance of his joining. He has only placed on record his consent letter (Schedule-III) purportedly issued under Rule 6(16) of 2007 Rules by way of Annexure-16 to his reply. After submission of his consent letter, there is nothing on record to show as to what is the date on which he has joined as Gram Katchahry Nyaya Mitra. Thus, the date on which the petitioner's employment was completed by acceptance of his joining in terms of Rule 6(16) read with Rule 12 of 2007 Rules is not available on record supported by any documents whatsoever.

9 In view of there being no date of joining available on record based on which this Court can ascertain the date of petitioner's employment, the submission that the complaint is belated is factually and legally unsustainable. The plea regarding the complaint of Respondent No 12 being barred, therefore, has no legs to stand on.

10 An additional fact in the instant case is the illegal manner in which the petitioner was selected. The Court having found the selection to be not in accordance with law would refrain from exercising equitable writ jurisdiction in favour of the



petitioner to revive the petitioner’s illegal selection. In this Connection, this Court would rely upon decision of the Apex Court in case of *Maharaja Chintamani Saran Nath Sahdeo -Versus- State of Bihar & Others*, reported in *(1999) 8 SCC 16*.

11 Writ petition is devoid of merit and is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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