

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.221 of 2024

In

Civil Writ Jurisdiction Case No.17015 of 2023

Geeta Devi, Wife of Ram Lakhan Paswan, Resident of Village- Rampur
Madan, P.S.- Bahadurpur, District- Darbhanga, Bihar- 846002.

... .. Appellant/s

Versus

1. The State Election Commission (Panchayat) Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commissioner, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
3. The Secretary, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
4. The District Election Officer (Panchayat)-cum-District Magistrate, Darbhanga, District- Darbhanga.
5. The Sub-Divisional Officer, Darbhanga-cum-Returning, District- Darbhanga.
6. Aarti Devi Wife of Ram Lakhan Paswan Resident of Village- Rampur Mdan, P.O. and P.S.- Bahadurpur, District- Darbhanga.
7. Sita Devi Wife of Sri Shambhu Paswan Resident of Village- Bahadurpur, P.O. and P.S.- Bahadurpur, District- Darbhanga, Presently Member of Darbhanga Zila Parishad, Darbhanga, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Y.V. Giri, Sr. Adv. With Mr. Devashish Giri, Adv. Mr. Roshan Mishra, Adv.
For the Resp No.7	:	Mr. S.B.K. Mangalam, Adv.
For the S.E.C.	:	Mr. Ravi Ranjan, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-03-2024

The appellant is aggrieved with the judgment dated
15.02.2024 passed in C.W.J.C. No. 17015 of 2023, by the
learned Single Judge, which directed consideration of limitation



in filing the election petition, as has been held in **Anil Kumar Jha v. State of Bihar [(2010) 4 PLJR 475]**.

2. The petitioner is aggrieved with the fact that the present election petition was filed when the COVID-19 Pandemic was surging throughout the country and hence the Hon'ble Supreme Court had also directed the extension of the period of the limitation. If at all, there was only five days delay in filing the election petition is the specific contention taken.

3. We have heard, Mr. Y.V. Giri, learned Senior Counsel, for the appellant, Mr. S.B.K. Mangalam, learned counsel for the 7th respondent and Mr. Ravi Ranjan, for the State Election Commission.

4. The brief facts, required to be looked into are that, the election to the Zila Parishad Territorial Constituency No.-20(7/1) was conducted and results were declared on 26.10.2021. An election petition had to be filed within thirty days i.e. on or before 24.11.2021. As per the decision in **Anil Kumar Jha (supra)**, there could be no election petition filed beyond the period of limitation, as there was no provision for enlargement of prescribed period of limitation; which is of thirty days. However, in the present case, the election was during the COVID-19 Pandemic. The Hon'ble Supreme Court had



extended the period of limitation with respect to every legal proceeding, as is seen from the various orders produced as Annexure-P2 along with I.A. No. 1 of 2024. The extension of limitation was applicable at the time of the declaration of results of the election.

5. There is some controversy as to whether the election petition was filed on 26.11.2021 or 29.11.2021. The learned Single Judge has also noticed that the signature in the election petition was of 26.11.2021. However, the matter was registered only on 29.11.2021.

6. The learned counsel for the 7th respondent also took us to Annexure-P-1 produced along with I.A. No. 1 of 2024, wherein the registration of the election petition is shown to be on 29.11.2021. As against the said date, the recital is “*A plaint along with power (second copy of plaint in duplicate) has been filed on behalf of plaintiff. Register it.*” Hence, the signature on the election petition of 26.11.2021, pales into insignificance.

7. We also have to notice that since the last date for filing an election petition was on 24.11.2021, the fact that whether the election petition was filed on 26.11.2021 or 29.11.2021, is inconsequential since there is obvious delay. If there can be no election petition filed beyond the period



provided, then there is no question of any condonation whether the delay is of two days or five days.

8. As of now, we find from the order passed by the Sub Judge (Election Tribunal) that on 14.10.2022, specifically the orders of the Hon’ble Supreme Court were reckoned and, in such circumstances, it was found that the delay is inconsequential since the COVID-19 Pandemic was surging throughout the country and the Hon’ble Supreme Court had extended the periods of limitation.

9. In the above circumstances, we only direct the Election Tribunal to dispose of the election petition itself, as expeditiously as possible, considering the overall pendency in the Tribunal.

10. The appeal would stand disposed off.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29-03-2024
Transmission Date	

