

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17015 of 2023

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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.

... .. Petitioner/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 Late Pappu Paswan, resident of Village-Rampur Madan, P.O. and P.s. Bahadurpur, District-Darbhanga
7. Geeta Devi, Wife of Ram Lakhan Paswan, resident of Village-Rampur Madan, P.O. and P.s. Bahadurpur, District-Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.S.B.K.Mangalam, Advocate Mr.Awnish Kumar, Advocate
For the Respondent/s	:	Mr.P.K. Verma, Sr. Advocate (AAG 3) Mr.Sanoj Sharma, AC to AAG 3
For SEC	:	Mr.Ravi Ranjan, Advocate Mr.Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 15-02-2024 Heard Mr. S.B.K.Mangalam along with Mr. Awnish Kumar, learned counsels appearing on behalf of the petitioner; Mr. P.K. Verma, learned Senior Counsel (AAG 3) along with Mr. Sanoj Sharma, learned counsel for the State and Mr. Ravi Ranjan along with Mr. Girish Pandey, learned counsel for the State Election Commission.



2. Mr. S.B.K.Mangalam, learned counsel appearing on behalf of the petitioner submits that the election result was announced on 26.10.2021. The petitioner was granted certificate on the same day after considering him to be the elected Member of Zila Parishad, Darbhanga.

3. Respondent No.7, who had also participated in the election, which was held on 24.10.2021 for the post of Member of Zila Parishad, Darbhanga is aggrieved by the selection of the petitioner on certain grounds. In this regard, he has given information in paragraph no.10 of the writ petition that the election petition was filed on 26.11.2021 and registered on 29.11.2021 by the Election Tribunal in the court of Sub Judge-I, Darbhanga, as would appear from the body of Election Petition No.10 of 2021, as contained in **Annexure 'P/1'** to the writ petition.

4. Learned counsel has alleged interpolation by the Advocate, who had filed Election Petition on behalf of the respondent no.7, which was not considered by the learned Tribunal and had passed order dated 14.10.2022 without considering the fact that the Advocate concerned under his signature has entered the date of filing to be 26.11.2021.

5. Learned counsel further proceeded that if an



objection to that extent was made by the petitioner then in that case, the law requires to verify the same and the entries made in the register maintained in his office with respect to the registration of cases.

6. Learned counsel further gives information that on the point of limitation, a Division Bench of this Court has held that the statutory limitation of 30 days from the date of election as contained in Rule 106 of the Bihar Panchayat Election Rules, 2006, is required to be strictly followed in accordance with the statutory provision and the provisions of Sections 5 to 9 of Limitation Act, 1963 will not come in the way for condoning the delay.

7. Considering the grievance of the petitioner raised in the resent writ petition, as well as, the fact, as to whether the question the Advocate concerned had put his signature on 26.11.2021 or whether the same has been done by managing the office of the Tribunal that can not be decided under the writ jurisdiction, however, it is made clear that before proceeding in the election case pending before the learned Sub-Judge-I, Darbhanga, he must first decide the issue of limitation considering the records and the judgment passed by this Court in the case of *Anil Kumar Jha Vrs. State of Bihar reported in*



(2010) 4 PLJR 475.

8. Considering the fact that the objection raised by the petitioner do not find proper consideration in the impugned order as well as no consideration has been made to the Division Bench judgment of this Court. The writ petition is disposed of and the impugned order dated 14.10.2022 is set aside and quashed.

9. The petitioner is directed to first appear before the appropriate authority with a copy of this order within two weeks without delaying further.

10. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

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