

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.545 of 2024

=====

Shashi Shekhar Mishra Son of Late Jatadhar Mishra Resident of village-
Gopalpur, Police Station- Kamtaul, Anchal Keoty, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Election Commissioner Through District Election Officer-cum-Collector, Darbhanga.
2. The Returning Officer-cum-Block Development Officer, Keoty, District-Darbhangha.
3. Gopal Kumar Jha, Son of Bhogendra Jha, Resident of Village- Pindaruchh, Block- Keoty, Police Station- Kamtaul, District- Darbhanga.
4. Praveen Kumar Mishra, Son of Badri Narayan Mishra Resident of Village-Pindaruchh, Police Station- Kamtaul, District- Darbhanga.
5. Raj Kumar Paswan Son of Late Subodh Paswan Resident of Village-Pindaruchh, Police Station- Kamtaul, District- Darbhanga.
6. Sunil Kumar Choudhary Son of Sri Jai Krishnaen Choudhary Resident of Village- Pindaruchh, Police Station- Kamtaul, District- Darbhanga.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Prabhat Kumar Verma, Sr. Advocate
	:	Mr. Uday Chand Prasad, Advocate
	:	Ms. Pooja Bala, Advocate
For the SEC	:	Mr. Girish Pandey
	:	Mr. Ravi Ranjan, Advocate
For Private Respondent	:	Mr. Dhanendra Choubey, Advocate
	:	Mr. Sanjay Kumar Ghosarvery, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 27-02-2025

Heard Mr, Prabhat Kumar Verma, learned senior counsel appearing on behalf of the petitioner assisted by Mr. Uday Chand Prasad, Mr. Girish Pandey, learned counsel for the State Election Commission and Mr. Dhanendra Choubey, learned counsel for the private respondents.

2. The present writ petition has been filed for the following reliefs:-



i) For quashing of order dated 30.09.2023 passed by learned Munsif-1st, Darbhanga in Election Petition Suit No. 1 of 2022 whereby petition dated 28.03.2023 filed by opponent Respondent No. 4 under Order 7 Rule 11(a) and (d) of Code of Civil Procedure read with Rule 106 of Bihar Panchayat Raj Rules 2006 for rejecting the Election Petition No. 01 of 2022 was allowed and by the said order the Election Petition No. 01 of 2022 filed by the petitioner has been rejected under Order 7 Rule 11(d) of Code of Civil Procedure on the ground of barred by limitation.

(ii) For direction to the learned Court below to decide the case bearing Election Petition No. 01 of 2022 after conducting full fledged trial, adducing the evidences of all the parties.

(iii) For any other appropriate order, direction save and except in accordance with law.

3. In the year 2021, the election of different posts of Gram Panchayat in the State of Bihar has been notified. The election of Gram Panchayat Raj, Pindaruchh under Keoty Block, Darbhanga for the post of Mukhiya was also notified. The petitioner along with others have filed the nomination for the post of Mukhiya of Gram Panchayat Pindaruchh under Keoty Block. The election was scheduled to be held on 15.11.2021 and counting was held on 17.01.2021. After counting, the petitioner declared to have won the election from 23 votes but subsequently the respondent No.2 in connivance with respondent No.3, declared



respondent No.3 as winning candidate by 50 votes. The petitioner filed representation before the District Magistrate, Darbhanga requested for re-counting the votes but no action has been taken.

4. Learned counsel for the petitioner submits that the petitioner had no other option but to file Election Petition No.01 of 2022 on 24.12.2021 before the Election Tribunal cum Munsif-1st, Darbhanga challenging the election of respondent No.3 declaring his election as void for the post of Mukhiya at Gram Panchayat.

5. The respondent no.3 had appeared in the election case and filed written statement on 05.04.2022, denying the statement given by the petitioner in Election Petition No. 01 of 2022. On 15.03.2023 the issues have been settled amongst all the parties and case has been fixed for evidence on behalf of petitioner. On 23.03.2023 witness no. 1 (petitioner) and on 28.03.2023 witness no. 2 (Lalit Kumar Mishra) were examined in Court and they have supported the case of the petitioner.

6. Learned counsel for the petitioner submits that respondent No.3 had filed a petition dated 28.03.2023 under Order 7 Rule 11(a) and (d) of Code of Civil Procedure read with Rule 106 of Bihar Panchayat Raj Rules, 2006 for rejecting the Election Petition of the petitioner on the ground of limitation. Thereafter on 20.04.2023 witness no.3 (Talvar Chaupal) and on 03.05.2023



witness no.4 (Raj Kumar Paswan) were examined in Court on behalf of the petitioner.

7. Learned counsel for the petitioner submits that learned Court below heard the matter on behalf of the petitioner under Order 7 Rule 11(a) and (d) of Code of Civil Procedure read with Rule 106 of Bihar Panchayat Raj Rules, 2006 and has been pleased to reject the Election Petition no.01 of 2022 on the ground of limitation that the Election Petition no.01 of 2022 was filed after expiry of 30 days. Learned counsel for the petitioner further submits that in the present case certain date is very important for adjudicating the present matter. The results were declared on 07.11.2021 and it is admitted fact that the Election Petition has been filed on 24.12.2021, after expiry of 30 days. He has relied upon the judgment of Hon'ble Apex Court in **Suo Motu Writ Petition (C) No.3 of 2020** decided on **08.03.2021** in which the Hon'ble Apex Court has extended the limitation in the aforesaid Writ Petition which were reported in **(2021) 5 SCC 452**. Paragraph Nos. 1, 2.1 and 2.2 of the aforesaid judgment are quoted hereinbelow:-

“1. Due to the onset of COVID-19 Pandemic, this Court took suo motu cognizance of the situation arising from difficulties that might be faced by the litigants across the country in filing petitions



/applications /suits /appeals /all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central or State). By an order dated 27-3-2020 (sic 23-3-20204) this Court extended the period of limitation prescribed under the general law or special laws whether compoundable or not with effect from 15-3-2020 till further orders. The order dated 15-3-2020 was extended from time to time. Though, we have not seen the end of the pandemic, there is considerable improvement. The lockdown has been lifted and the country is returning to normalcy. Almost all the Courts and Tribunals are functioning either physically or by virtual mode. We are of the opinion that the order dated 15-3-2020 has served its purpose and in view of the changing scenario relating to the pandemic, the extension of limitation should come to an end”.

“2.1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15-3-2020 till 14-3-2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15-3-2020, if any, shall become available with effect from 15-3-2021”.

“2.2. In cases where the limitation would have expired during the period between 15-3-2020 till 14-3-2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15-3-2021. In the event the actual balance period of limitation remaining, with effect



from 15-3-2021, is greater than 90 days, that longer period shall apply”.

8. From perusal of the aforesaid orders, it appears that the Hon’ble Apex Court declared that the period from 15.03.2020 till 14.03.2021 shall also stand excluded.

9. Learned counsel for the petitioner further submits that Hon’ble Apex Court in **Suo Motu Writ Petition (C) No.3 of 2022** decided on **10.01.2022** has further extended the period from 15.03.2020 till 28.02.2022. Paragraph Nos. 5,5.1, 5.2 and 5.3 of the aforesaid judgment are quoted hereinbelow:-

“5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

“5.1 The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings”.

“5.2 Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022”.



“5.3 In cases where the limitation would have expired during the period between 15.03 2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03. 2022 is greater than 90 days, that longer period shall apply”.

10. From bare perusal of the aforesaid orders it appears that Hon’ble Apex Court has declared that in cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022.

11. Learned counsel for the private respondents submits that as per provision any person aggrieved with the election has to prefer election petition before the Election Tribunal constituted. The Election Petition has also to be filed within 30 days as provided under Section 137 of the Bihar Panchayat Raj Act read with Rule 106 of the Bihar Panchayat Election Rules, 2006 and it is admitted fact that the petitioner has not filed the Election Petition within period of 30 days from the date of declaration of the result.



12. Having heard learned counsel for the parties and perused the materials on record and in view of the findings of the Hon’ble Apex Court that the period of limitation for any suit, appeal, application and proceeding, the period from 15.03.2020 till 28.02.2022 shall stand excluded and in the aforesaid petition, the petitioner has filed the petition within the prescribed time as per findings of the Hon’ble Apex Court in Suo Motu Writ Petition (C) No.3 of 2022. Accordingly the order dated 30.09.2023 (Annexure-10) of the writ petition passed by learned Court of Munsif-1st, Darbhanga in Election Petition No. 01 of 2023 is hereby set aside.

13. The present matter is remitted back to the learned Court of Munsif-1st, Darbhanga to hear the Election Petition No. 01 of 2023 afresh on its own merits.

14. Accordingly, the writ petition is allowed.

(Rajesh Kumar Verma, J)

Suruchi/priyanka/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2025
Transmission Date	NA

