
(2009) 08 CHH CK 0002
In the Chhattisgarh High Court

Bhishambhar Dayal Patel @ Judev Patel	APPELLANT
Vs	
Yuddhveer Singh Judev	RESPONDENT

Date of Decision : 21-08-2009

Acts Referred:

Limitation Act, 1963 — Section 5
Representation of the People Act, 1951 — Section 100, 101, 117, 81, 82

Citation : (2009) 5 MPHT 16

Hon'ble Judges : Dharendra Mishra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Dhirendra Mishra, J.—This Election Petition is listed on default as pointed out by Additional Registrar (Judicial) vide office note dated 20th March, 2009 that the petition filed is barred by 1 day.

2. From the pleadings in the petition, it appears that the result of the election of respondent was declared on 8th December, 2008 and petition has been filed on 23rd January, 2009, i.e., on 46th day after declaration of result.

3. Section 81(1) of the Representation of the People Act, 1951 (for short "the Act") prescribes as under:

81. Presentation of petitions.-- (1) An election petition calling in question any election may be presented on one or more of the grounds specified in Sub-section (1) of Section 100 and Section 101 to the High Court by any candidate at such election or any elector within forty-five days from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidate at the election and dates of their election are different, the later of those two dates.

4. Thus, it is clear that election petition calling in question any election may be presented to the High Court within 45 days from the date of election of the returned candidate. Sub-section (1) of Section 86 of the Act envisages that the

High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117.

5. It is settled law that period of 45 days for the presentation of election petitions is mandatory and sacrosanct. Any election petition presented to the High Court beyond the prescribed period of 45 days shall be summarily dismissed by it u/s 86. The Representation of the People Act, 1951 is a self-contained code and the provisions of Section 5 of the Limitation Act do not apply to the presentation of election petition u/s 81. The High Court has no discretion or power to condone the delay on any ground at all. For this, I am fortified in my view by the judgments of the Supreme Court in the matters of *Hukumdev Narain Yadav Vs. Lalit Narain Mishra*, and *K. Venkateswara Rao and Another Vs. Bekkam Narasimha Reddi and Others*, .

6. It is not the case of the petitioner that 46th day after the date of election of returned candidate was a holiday. Even otherwise from the calendar of the High Court, I find that 22nd January, 2009 was working day of the High Court and thus, the petition has been filed with a delay of 1 day.

7. In view of the settled position of law in this regard, I dismiss this petition in view of the provisions of Section 86(1) read with Section 98 of the Act, as the same has been filed with a delay of 1 day as barred by limitation.