
(1994) 12 PAT CK 0013

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6981 of 1994

Sita Ram Sah

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-12-1994

Acts Referred:

Citation : (1994) 12 PAT CK 0013

Final Decision : Dismissed

Judgement

S.N. Jha, J.—What is the starting point of limitation for raising dispute with respect to election in a co-operative society is the question raised in this writ petition. More precisely stated, the question is whether it runs from the date of declaration of the result or the date on which the certificate" in token of the result is granted by the Election Officer.

2. The facts relevant to the controversy are that the election of the members and office-bearers of the managing committee of the Bahuarba PACS Ltd. was held on January 25, 1993. The results of the election were declared the same day. The certificate regarding declaration of results, however, was issued on February 13, 1993. The Petitioner raised dispute by way of election petition before the Additional Registrar (Planning), Co-operative Societies, in Election Case No. 58 of 1993 which was dismissed on April 13, 1994, as time barred. The attempt to get the said order set aside in appeal before the Registrar, Co-operative Societies having gone in vain the Petitioner has come to this Court.

3. Rule 21-X of the Bihar Co-operative Societies Rules, 1959, provides for election petition in respect of election held in a cooperative society, which runs as under:

21-X. Any dispute relating to election of a co-operative society may be raised within 30 days from the declaration of the result and such dispute shall be decided u/s 48 of the Bihar Co-operative Societies Act, 1935.

4. A plain reading of the Rule does not warrant the proposition that the period

shall run from the date the certificate is furnished, as contended on behalf of the Petitioner. The rule very clearly provides that it shall run from the date of declaration of the result. Counsel for the Petitioner, however, contended that inasmuch as the certificate in token of the result of the election is required to be furnished under Rule 21-U(4), unless the certificate is furnished the period of limitation cannot start running. The submission is wholly misconceived.

5. The provision in regard to election to co-operative societies are contained in Rules 21-A to 21-X of the Co-operative Societies Rules. The said rules envisage different stages of the election process. For the purpose of the present case we need notice only Rule 21-U. That rule relates to the stage of counting of ballots and declaration of results. Sub-rule (4) which is relevant to the controversy and upon which reliance has been placed on behalf of the Petitioner may also be quoted as hereunder:

The Election Officer shall declare the result of election as soon as the counting is completed indicating the number of votes secured by each candidate and shall also furnish a certificate in writing under his seal and signature to the successful candidate and the notified authority under Rules 21-B(1), (2) and (3), as the case may be.

6. On bare reading of the above provision it would appear that the rule provides for two things-(a) declaration of result after counting is over, and (b) furnishing of the certificate in token of the declaration of the result. The word "also" occurring in the rule clearly suggests that although declaration and furnishing of the certificate are supposed to be done simultaneously they are the two distinct stages of the process. Rule 21-X expressly states that the period of limitation shall run from the declaration. It does not say that it shall run from the date the certificate is furnished to him. The makers of the rules must be presumed to be aware of this distinction. If with the above distinction in mind, the rule provides that the period shall run from the date of declaration of the result, there can be no scope for taking any contrary view of the matter.

7. There is Anr. reason why the plea must be rejected. Rule 21-U(4) provides for furnishing the certificate "to the successful candidate" besides the notified authority under Rules 21-B(1), (2) and (3). It does not contemplate giving any copy of such certificate to any unsuccessful candidate or any other person, who may have grievance against the election result and, thus, have a cause of action for raising election dispute. If the law does not entitle them to any certificate of the result of election or copy thereof, surely period of limitation for filing election petition at their instances cannot be said to run from the date when the certificate is actually furnished to the successful candidate or the notified authority. How does it matter to them whether and if so when the certificate is furnished (to the successful candidates)? I, accordingly, have no hesitation in holding that the period of limitation shall run from the date of declaration of the result and not from the date when the certificate regarding declaration of the result is furnished.

8. The other question as to whether the limitation in filing election petition can be condoned or not is not res integra. The Supreme Court in Sakuru Vs. Tanaji, has held that the provisions of Limitation Act apply only to proceedings in "Courts" and not to appeals and applications before the bodies other than Courts, such as, quasi-judicial tribunals or executive authorities notwithstanding the fact that such bodies or authorities may be vested with certain specified powers conferred on courts under the Codes of Civil or Criminal Procedures. It is not in dispute that the Registrar, Cooperative Societies, is not a court within the meaning of CPC or the Code of Criminal Procedure. He has merely been invested with certain powers of judicial natures that a court may exercise under the Code of Civil Procedure. Reference may also be made to Hukumdev Narain Yadav Vs. Lalit Narain Mishra, wherein the Supreme Court while dealing with the provision relating to election petition under the Representation of People Act, 1951, held that the provisions of Section 5 of the Limitation Act are not applicable to election petition. This Court also has taken similar view as regards election petitions under the Bihar Co-operative Societies Act and the Rules framed thereunder in the case of Mathia Brith Joint Farming Co-operative Societies Ltd. v. State C.W.J.C. 2885 of 1991; disposed of on February 21, 1992.

9. In the result, I do not find any merit in this application, which is, accordingly, dismissed.

S.J. Mukhopadhaya, J.

10. I agree.