

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.2127 of 2017

(Arising out of order dated 7-6-2017 in Case No.F-68-3/Three(Two)/  
N.P./Vyay Lekha/2016/2815 of the Chhattisgarh State Election  
Commission, Raipur)

Fohara Bai Miri, W/o Shri Ramnath Miri, aged about 45 years, R/o  
Village Maro, Ward No.10, Nagar Panchayat, Maro, Police Chowki  
Maro, District Bemetara (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Urban Administration  
Development Department, D.K.S. Bhawan, Raipur (C.G.)
2. The Commissioner, State Election Commission, D.K.S. Bhawan  
Near (Old Mantralaya), Raipur, District Raipur (C.G.)
3. The Secretary, State Election Commission, D.K.S. Bhawan Near  
(Old Mantralaya), Raipur, District Raipur (C.G.)
4. The Collector, District Bemetara (C.G.)
5. The Chief Municipal Officer, Nagar Panchayat, Maro, District  
Bemetara (C.G.)

---- Respondents

---

For Petitioner: Mr. Bharat Rajput, Advocate.  
For Respondents No.1 and 4 / State: -  
Mr. R.N. Pusty, Govt. Advocate.  
For Respondents No.2 and 3: -  
Mr. R.S. Marhas, Advocate.  
For Respondent No.5: None present.

---

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

14/08/2018

1. The petitioner herein was elected as President of Nagar Panchayat  
Maro, Distt. Bemetara, on 31-12-2015 and the election was notified  
in the Official Gazette on 4-1-2016. She was obliged to submit her  
election expenses within 30 days from the date of election as

President of Nagar Pachayat by virtue of Section 32-B of the Chhattisgarh Municipalities Act, 1961 (for short, 'the Act of 1961'), which she could not submit leading to issuance of show-cause notice by the Chhattisgarh State Election Commission on 23-5-2016 to show-cause as to why she not be disqualified for failing to lodge the account of expenses within time and manner required by the Act of 1961. She replied the show-cause notice on 17-6-2016 clearly stating that she was unaware of the provision relating to lodging of election expenses within 30 days from the date of notification of election, but since that reply was not signed by her, she was again subjected to notice on 7-12-2016 to which she filed reply on 17-1-2017 stating inter alia that the requirement of lodging election expenses was not informed to her by any of the election officers or the District Election Officer and she being a Scheduled Caste woman and only studied up to Class-II, did not have the technical and legal knowledge of lodging expenses and therefore she could not file the same. On 29-5-2017, on being asked by the Commissioner, Chhattisgarh State Election Commission to again appear before the Commission to record her statement, she appeared and made statement on that day that she being an illiterate lady and not aware of the legal provision regarding lodging of election expenses within 30 days from the date of election apart from being unwell on that day, could not file the same and that constitutes good cause for not filing election expenses within the time stipulated under Section 32-B of the Act of 1961.

2. The State Election Commission by its impugned order considered

the reply filed by the petitioner at the first instance that she being an illiterate SC woman was not aware of the legal requirement of lodging election expenses within 30 days and also considered the subsequent statement that she remained unwell till 28-2-2016, and holding the two statements to be contradictory held that no good cause or justification for failure to file election expenses has been shown by her and consequently disqualified her to further hold the post of President of Nagar Panchayat and also disqualified her for being elected on the post of President or Councillor of the municipality for a period of four years. Questioning legality, validity and correctness of the order passed by the State Election Commission disqualifying the petitioner from holding the post of President, Nagar Panchayat, Maro and also questioning her further disqualification for being elected on the post of President or Councillor of the municipality for four years, this writ petition has been filed.

3. Return has been filed by the State Election Commission opposing the averments made in the writ petition stating inter alia that the petitioner has failed to show good reason / justification for not lodging the election expenses within the stipulated time and in the manner prescribed in Section 32-C(b) of the Act of 1961.
4. Mr. Bharat Rajput, learned counsel appearing for the petitioner, would submit that the petitioner being a Scheduled Caste illiterate woman aged about 50 years was not aware of the legal requirement of lodging election expenses within 30 days from the date of her election and therefore she could not file the same and it

was never informed to her by any of the election officers or District Election Officer to lodge the expenses, however, she had already filed the election expenses on 29-2-2016 and the time taken in filing the same is on account of illiteracy and not being aware of the requirement of law to lodge the said expenses which constitutes good reason within the meaning of Section 32-C(b) of the Act of 1961 and as such, the learned Commission is absolutely unjustified in rejecting the petitioner's stand and thereby disqualifying her on the post of President and further disqualifying her from contesting the election on the post of President of the Nagar Panchayat, therefore, the impugned order deserves to be quashed.

5. Mr. R.S. Marhas, learned counsel appearing for respondents No.2 and 3 – Chhattisgarh State Election Commission, while vehemently opposing the prayer made by Mr. Rajput, would submit that admittedly, election expenses were filed before the competent authority on 29-2-2016 after the period of 30 days from the date of notification of election and reason assigned is contradictory in nature, as such, there is no good reason or justification for failure to submit election expenses and the petitioner has rightly been disqualified for the said post and further, she has also been rightly disqualified for being chosen and for being elected as President of the Nagar Panchayat for four years.

6. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the record with utmost circumspection.

7. In order to appreciate the rival contentions made by the parties, it

would be appropriate to notice the legal provisions in this regard under the Act of 1961 and the rules made thereunder. Sections 32-A, 32-B and 32-C of the Act of 1961 state as follows: -

**“32-A. Account of election expenses.—**(1) Every candidate at an election of President shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both days inclusive.

*Explanation I.—*Any expenditure incurred or authorised in connection with the election of a President by a political party or by any other association or body of persons or by any individual other than the candidate or his election agent shall not be deemed to be expenditure in connection with the election incurred or authorised by the candidate or by his election agent for the purpose of this sub-section.

*Explanation II.—*For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of Section 123 of the Representation of the People Act, 1951, in discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purpose of this sub-section.

(2) The total of the said expenditure shall not exceed, such amount as may be prescribed by the State Government in consultation with the State Election Commission.

(3) The account of expenditure shall contain such particulars as may be prescribed by the State Election Commission.

**32-B. Lodging of account of election expenses.—**Every contesting candidate at an election of President shall, within thirty days from the date of election of the returned candidate lodge with the officer notified by the State Election Commission an account of his election expenses which shall be a true copy of the account kept by him or by his election agent under Section 32-

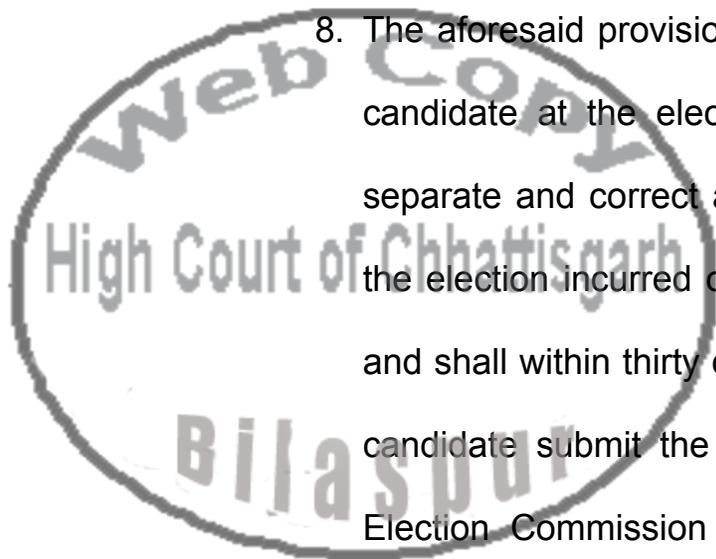
A.

**32-C. Disqualification for failure to lodge account of election expenses.**—If the State Election Commission is satisfied that a person—

(a) has failed to lodge an account of election expenses within the time and in the manner required by or under this Act; and

(b) has no good reason or justification for the failure, the State Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for being chosen as, and for being a Councillor President of the Municipal Council or Nagar Panchayat, as the case may be for a period not exceeding five years from the date of the order.”

8. The aforesaid provisions of the Act of 1961 would show that every candidate at the election of President is required to maintain a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent and shall within thirty days from the date of election of the returned candidate submit the same with the officer notified by the State Election Commission an account of his election expenses. By virtue of the provisions contained in Section 32-C of the Act of 1961, the State Election Commission is required to be satisfied before making the order of disqualification for failure to lodge account of election expenses that whether the person has failed to lodge an account of election expenses within the time and in the manner required by or under the Act or not and if it finds that such a candidate has no good reason or justification for the failure, the State Election Commission is empowered to disqualify him for being chosen as President of the Municipal Council or Nagar Panchayat, as the case may be, for not exceeding five years from



the date of the said order.

9. In exercise of the powers conferred by Article 243-ZA of the Constitution of India read with Section 14-A of the Chhattisgarh Municipal Corporation Act, 1956 and Section 32-A of the Act of 1961, the State Election Commission has issued an order known as the Election Expenses (Maintenance and Lodging of Account) Order, 2012 (for short, 'the Order, 2012'). Lodging of the account of election expenses is contained in clause 7 of the Order, 2012. Clause 10 of the Order, 2012 is relevant and for the sake of convenience, it is noticed herein-above: -

**“10. Report by the District Election Officer as to the lodging of the account of election expenses and the decision of Election Commission thereon.—(1)**

As soon as may be after the expiration of the time specified in the Act for the lodging of the account of election expenses the District Election Officer shall send a report to the Election Commission about every contesting candidate, on the following points: -

- (a) The name of the contesting candidate with full postal address;
- (b) Whether such candidate has lodged his account of election expenses and if so, the date on which such account has been lodged; and
- (c) Whether in his opinion such account has been lodged within the time and in the manner required by the Act and this Order.

(2) Where the District Election Officer is of the opinion that the account of election expenses of any contesting candidate has not been lodged in the manner required by the Act and this Order, he shall with every such report forward to the Election Commission the account of election expenses of that candidate.

(3) Immediately after the submission of the report referred to in sub-paragraph (1) the District Election Officer shall publish a copy thereof by affixing the same to his notice board.

(4) As soon as may be after the receipt of the report referred to in sub-paragraph (1) the Election Commission shall consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and this Order.

(5) Where the Election Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the Act and this Order, it shall by notice in writing call upon the candidate to show cause why he should not be disqualified under section 14-C of the Chhattisgarh Municipal Corporation Act, 1956 (No. 23 of 1956) or section 32-C of the Chhattisgarh Municipalities Act, 1961 (No. 37 of 1961), as the case may be, for the failure.

(6) Any contesting candidate who has been called upon to show cause under sub-paragraph (5), may within fifteen days of the receipt of such notice submit in respect of the matter a representation in writing to the Election Commission and shall at the same time send to the District Election Officer a copy of his representation.

(7) The District Election Officer, within five days of the receipt thereof, forward to the Election Commission the copy of the representation with such comments as he wishes to make thereon."

10. At this stage, it would be expedient to notice the relevant judgments of the Supreme Court and the High Court dealing with the issue in question for adjudicating the controversy.

11. In a decision of the Supreme Court in the matter of **Ravi Yashwant Bhoir v. District Collector, Raigad and others**<sup>1</sup>, Their Lordships of the Supreme Court have considered that removal of elected office-bearer from office on the basis of proved misconduct is a quasi judicial proceeding in nature and therefore the principles of natural justice are required to be given full play and strict compliance should be ensured, even in the absence of any

---

1 (2012) 4 SCC 407

provision providing for the same and observed as under in paragraphs 30, 31 and 32: -

“30. There can also be no quarrel with the settled legal proposition that removal of a duly elected member on the basis of proved misconduct is a quasi-judicial proceeding in nature. [Vide *Indian National Congress (I) v. Institute of Social Welfare*<sup>2</sup>.] This view stands further fortified by the Constitution Bench judgments of this Court in *Bachhitar Singh v. State of Punjab*<sup>3</sup> and *Union of India v. H.C. Goel*<sup>4</sup>. Therefore, the principles of natural justice are required to be given full play and strict compliance should be ensured, even in the absence of any provision providing for the same. Principles of natural justice require a fair opportunity of defence to such an elected office-bearer.

31. Undoubtedly, any elected official in local self-government has to be put on a higher pedestal as against a government servant. If a temporary government employee cannot be removed on the ground of misconduct without holding a full-fledged inquiry, it is difficult to imagine how an elected office can be removed without holding a full-fledged inquiry.

32. In service jurisprudence, minor punishment is permissible to be imposed while holding the inquiry as per the procedure prescribed for it but for removal, termination or reduction in rank, a full-fledged inquiry is required otherwise it will be violative of the provisions of *Article 311* of the Constitution of India. The case is to be understood in an entirely different context as compared to the government employees, for the reason, that for the removal of the elected officials, a more stringent procedure and standard of proof is required.”

12. Likewise, in paragraphs 34, 35 and 36 of the judgment rendered in

**Ravi Yashwant Bhoir** (supra), Their Lordships of the Supreme

Court held as under: -

“34. In a democratic institution, like ours, the incumbent is entitled to hold the office for the term for which he has been elected unless his election is set aside by a prescribed procedure known to law or he is removed by the procedure established under law. The

<sup>2</sup> (2002) 5 SCC 685 : AIR 2002 SC 2158

<sup>3</sup> AIR 1963 SC 395

<sup>4</sup> AIR 1964 SC 364

proceedings for removal must satisfy the requirement of natural justice and the decision must show that the authority has applied its mind to the allegations made and the explanation furnished by the elected office-bearer sought to be removed.

35. The elected official is accountable to its electorate because he is being elected by a large number of voters. His removal has serious repercussions as he is removed from the post and declared disqualified to contest the elections for a further stipulated period, but it also takes away the right of the people of his constituency to be represented by him. Undoubtedly, the right to hold such a post is statutory and no person can claim any absolute or vested right to the post, but he cannot be removed without strictly adhering to the provisions provided by the legislature for his removal (vide *Jyoti Basu v. Debi Ghosal*<sup>5</sup>, *Mohan Lal Tripathi v. District Magistrate, Rae Bareilly*<sup>6</sup> and *Ram Beti v. District Panchayat Raj Adhikari*<sup>7</sup>).

36. In view of the above, the law on the issue stands crystallised to the effect that an elected member can be removed in exceptional circumstances giving strict adherence to the statutory provisions and holding the enquiry, meeting the requirement of principles of natural justice and giving an incumbent an opportunity to defend himself, for the reason that removal of an elected person casts stigma upon him and takes away his valuable statutory right. Not only the elected office-bearer but his constituency/electoral college is also deprived of representation by the person of his choice.”

13. In the matter of **Sadashiv H. Patil v. Vithal D. Teke and others**<sup>8</sup>,

the Supreme Court in para-14 held thus:--

“14. A finding as to disqualification under the Act has the effect of unseating a person from an elected office held by him pursuant to his victory at the polls in accordance with the democratic procedure of constituting a local authority. The consequences befall not only him as an individual but also the constituency represented by him which would cease to be represented on account of his having been disqualified. Looking at the penal consequences flowing from an elected councillor being subjected to disqualification and its repercussion on the functioning of the local body as also the city or township governed by the local body

5 (1982) 1 SCC 691 : AIR 1982 SC 983

6 (1992) 4 SCC 80 : AIR 1993 SC 2042

7 (1998) 1 SCC 680 : AIR 1998 SC 1222

8 (2000) 8 SCC 82

the provisions have to be construed strictly. A rigorous compliance with the provisions of the Act and the Rules must be shown to have taken place while dealing with a reference under Section 7 of the Act.”

14. In the matter of **Jawahar Lal Gupta v. Rajya Nirvachan Ayog, Bhopal**<sup>9</sup>, the High Court of Madhya Pradesh interpreting Section 32-C of the Act, 1961 held thus:

“13. A reading of Section 32-C of the Act of 1961 makes it clear that State Election Commission is enjoined to record a satisfaction that a person has failed to lodge the account of election expenses within the time and the manner required under this Act, and further mind has to be applied by the State Election Commission mandatorily as to the "reasons", and the finding has to be recorded that a person has "no good reason or justification" for the failure. The State Election Commission shall, by order published in the Official Gazette, declare such person to be disqualified and such a person shall be disqualified for being chosen as and for being a member of the Municipal Council or Nagar Panchayat, as the case may be, for a period not exceeding five years from the date of the order. Serious consequences are enumerated in Section 32-C of the Act.”

15. In the matter of **Jaipal Singh v. M.P. State Election Commission and others**<sup>10</sup>, the Madhya Pradesh High Court quashed the order of disqualification passed under Section 32-C of the Act, 1961 on the ground that the order was passed without application of mind and without affording opportunity of hearing to the petitioner.

16. In the matter of **Shantilal (Bum Bum) v. State of M.P. and others**<sup>11</sup>, the High Court of Madhya Pradesh interpreting Section 32-C of the Act, 1961 held thus:

“9. Perusal of aforequoted section clearly indicate that Election Commission is under legal obligation to record its satisfaction whether a person has failed to make out any good reason or justification for his failure

9 2003 (1) MPLJ 180

10 2006 (4) MPHT 10 (NOC)

11 2003 (3) MPHT 326

in not submitting the accounts within time prescribed. In other words, if the person is required to make out a good reason or justify as to why and for what reasons, he could not submit the accounts in time, it is equally obligatory upon the State Election Commission to examine as to whether grounds, and/or cause stated in reply constitutes good reason. It requires application of judicial mind to the facts of each case and then a reasoned order as to why the reasons stated in reply by a concerned person do not make out a case of good reasons or why it makes out a case of good reasons. In either case, the order passed by the Election Commissioner must indicate its reasoning. The use of the word "is satisfied" in Section 32-C *ibid* is significant. It contemplates judicial application of mind to be applied by Election Commissioner to the facts of each case and secondly, it must appear from the order that the satisfaction reached has some factual and legal basis. It involves an element of exercise of discretion and when one speaks of exercise of discretion it always means judicial discretion as is well known in judicial parlance. Since, the consequences of adverse order are quite disastrous because it results in vacation of the office secured by democratic way, the issue must be dealt with care and judiciously."

17. In the matter of Mahendra, s/o R.S. Palariya v. M.P. State Election Commission and others<sup>12</sup>, a show cause notice was issued under Section 32-C in the year 2000 and he was disqualified after 4 years from the date of submitting explanation. The High Court was of the opinion that had the Commission taken a decision in the year 2000 the disqualification would have come to an end till the next election. Accordingly, it has been held that disqualification cannot be sustained under the law and it was quashed.

18. After having noticed the statutory provisions and also after having noticed the relevant principles of law, reverting to the facts of the present case, following facts would emerge on the face of the record: -

1. The proceeding for disqualification under the Order, 2012, is

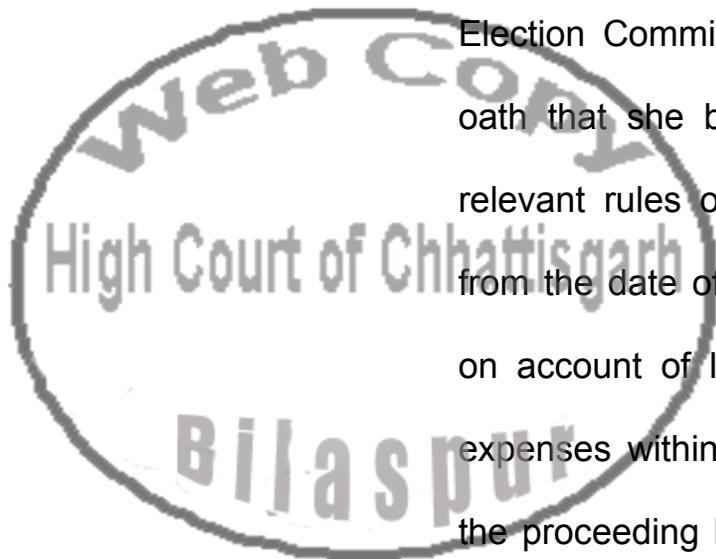
a quasi judicial proceeding and principles of natural justice must be followed strictly.

2. The petitioner was declared elected on 31-12-2015, election was notified on 4-1-2016 in the Official Gazette and last date for filing election expenses as per Section 32-B of the Act of 1961 was 3-2-2016, whereas election expenses were filed on 29-2-2016, as such there is delay of 26 days in lodging election expenses.

3. The petitioner examined herself on oath before the State Election Commission on 29-5-2017 in which she stated on oath that she being an illiterate lady was unaware of the relevant rules of lodging election expenses within 30 days from the date of election and was also unwell and therefore on account of legal illiteracy, she could not lodge election expenses within time and her explanation be accepted and the proceeding be dropped, as that constitutes good reason and justification.

4. The petitioner was not cross-examined by the Presenting Officer on behalf of the State Election Commission and no officer was examined on behalf of the Commission to say that the petitioner was aware of the provision contained in Section 32-B of the Act of 1961 requiring lodging of election expenses within 30 days from the date of election.

19. The question for consideration would be, whether the State Election Commission is justified in holding that the reason assigned by the petitioner for failure of lodging the election expenses within time



does not constitute good reason / justification within the meaning of Section 32-C(b) of the Act of 1961?

20. The Commission considered the reply and oral statement on oath made on behalf of the petitioner in para 6.2 of the impugned order. It appears that the learned Commissioner has basically considered the issue that the petitioner has taken the defence of not being aware of the legal requirement of lodging election expenses within 30 days and also being unwell while making statement on oath before the Commission on 29-5-2016 and finding that it is improved statement of the petitioner to explain the failure to lodge election expenses and to assign good reason such a contradictory defence has been taken which has not been taken earlier while immediately replying the show-cause notice dated 23-5-2016 and finding such a ground of unwell to be untenable, did not consider the ground of not aware of the legal requirement to lodge election expenses presumably on the premises that every person is presumed to know the law and ignorance of law is no excuse. This old-age rule *ignorntia juris non excusat* is a legal principle holding that person who is unaware of law may not escape liability for violating that law merely because one was unaware of it, but further question would be whether there is presumption that every person knows the law.

21. It appears that the learned Commission has proceeded on the basis that every person knows the law. The question is, whether the learned Commission is justified in holding so and thereby disqualifying the petitioner from the said post. Their Lordships of the Supreme Court in the matter of **M/s. Motilal Padampat Sugar**

**Mills Co. Ltd. v. The State of Uttar Pradesh and others**<sup>13</sup> has categorically held that there is no such presumption that every person knows the law. Distinguishing the legal principle that ignorance of the law is no excuse, it has been held by Their Lordships as under:-

"6. ... Moreover, it must be remembered that there is no presumption that every person knows the law. It is often said that every one is presumed to know the law, but that is not a correct statement: there is no such maxim known to the law. Over a hundred and thirty years ago, Maule J., pointed out in *Martindale v. Falkner*, (1846) 2 CB 706 "There is no presumption in this country that every person knows the law: it would be contrary to common sense and reason if it were so". Scrutton, L.J., also once said: "It is impossible to know all the statutory law, and not very possible to know all the common law." But it was Lord Atkin who, as in so many other spheres, put the point in its proper context when he said in *Evans v. Bartlam*, 1937 AC 473" ..... the fact is that there is not and never has been a presumption that every one knows the law. There is the rule that ignorance of the law does not excuse, a maxim of very different scope and application." It is, therefore, not possible to presume, in the absence of any material placed before the Court, that the appellant had full knowledge of its right to exemption so as to warrant an inference that the appellant waived such right by addressing the letter dtd. 25th June, 1970. We accordingly reject the plea of waiver raised on behalf of the State Government."

22. In the matter of **Sital Prasad Saxena (dead) v. Union of India and others**<sup>14</sup>, the Supreme Court observed as follows: -

"The second error was that once an appeal is pending in the High Court, the heirs are not expected to keep a constant watch on the continued existence of parties to the appeal before the High Court which has a seat far away from where parties in rural area may be residing. And in a traditional rural family the father may not have informed his son about the litigation in which he was involved and was a party."

23. The Supreme Court in the matter of **Ram Sumiran and others v.**

---

13 AIR 1979 SC 621

14 AIR 1985 SC 1

D.D.C. and others<sup>15</sup> has acknowledged the fact of poverty, ignorance and illiteracy in the country and also acknowledged the fact that the appellants therein being the persons from rural background held that it would be unfair to presume that everyone knows that on death of a respondent, the legal representatives have to be brought on record within a certain time and thereby allowed the application for substitution.

24. The Supreme Court in the matter of Bhagwan Swaroop and others v. Mool Chand and others<sup>16</sup> has held that undoubtedly, law to be administered to advance justice.

25. Indians live in villages. A great majority of Indians live in villages, illiteracy yet prevails and people ordinarily cannot be expected to know the law and its intricacies and in view of the law laid down by the Supreme Court, it is clear that there is a famous rule that ignorance of law is no excuse, but there is no presumption that every one knows the law and it would be preposterous to presume that an illiterate person would know the provisions of law and rules made thereunder. The National Legal Services Authority (NALSA) has also issued guidelines for establishment and functioning of "Legal Literacy Club" to create legal awareness amongst the people so that the masses should be aware of the laws of the land. Thus, the Supreme Court with the help of NALSA is trying to get literacy relating to laws in general public.

26. As per Section 32-C(b) of the Act of 1961, the petitioner is required to show good reason or justification for her failure to file election

---

15 AIR 1985 SC 606

16 (1983) 2 SCC 132

expenses. As required by Section 32-C(b) of the Act of 1961, it would be necessary to consider the difference between good cause and sufficient cause. What is the difference between good cause and sufficient cause has been highlighted by the Supreme Court in the matter of Arjun Singh v. Mohindra Kumar and others<sup>17</sup> in which Their Lordships have held that good cause is lighter than sufficient cause and lighter degree of proof is required in showing good cause than sufficient cause.

27. Reverting to the facts of the present case in hand, after noticing the legal principles in this regard, it would be quite apparent that the petitioner who is an illiterate lady was elected as President of Nagar Panchayat, Maro and she is also a woman belonging to Scheduled Caste. She could not file election expenses on or before 3-2-2016 as required under Section 32-B of the Act of 1961, but any how, she could lodge the election expenses by 29-2-2016.

28. The petitioner is resident of Village Maro and she appears to be of rural background and practically illiterate woman and declared elected President of Nagar Panchayat, Maro. In the first reply filed before the Commission, she has categorically admitted to be illiterate and Scheduled Caste woman and she not being aware of the legal requirement of law and studied only up to Class-II, can only put her signature and therefore she could not lodge the election expenses well within time prescribed by law. It appears, the Commission did not consider the issue in right perspective and simply on the ground that ignorance of law is no excuse and every person is presumed to know the law, proceeded further which is not

the correct proposition of law as propounded by the Supreme Court in M/s. Motilal Padampat Sugar Mills Co. Ltd. (supra). In M/s. Motilal Padampat Sugar Mills Co. Ltd. (supra), the petitioner therein was not aware of the right to exemption so as to wave off his such right. In the instant case, it is an un-controverted evidence on record which the petitioner has made statement on 29-5-2016 that she was not aware of the legal obligation to lodge election expenses within 30 days from the date of her election. No material has been brought on record to hold that she was aware of her duty to submit the election expenses within 30 days from the date of her election. It is also not the finding by the State Election Commission that despite knowledge of legal duty, lodging of election expenses was deliberately or willingly avoided by the petitioner. Even otherwise, she would not get any advantage by not lodging the election expenses right in time in view of the consequence having been provided under Section 32-C of the Act of 1961.

29. In my considered opinion, the explanation given by the petitioner constitutes good cause / justification within the meaning of Section 32-C(b) of the Act of 1961, meaning thereby, the second limb of Section 32-C of the Act of 1961 is not satisfied and therefore declaration of the State Election Commission that the petitioner is disqualified for being chosen as President of Nagar Panchayat, Maro is arbitrary and contrary to law apart from being illegal. As such, the order impugned of the State Election Commission deserves to be and is hereby quashed.

30. As a fallout and consequence of aforesaid discussion, the order

passed by the State Election Commission holding the petitioner to be disqualified on the post of President of Nagar Panchayat, Maro is hereby quashed and also the resultant direction that she will not be eligible to be chosen as President for four years is also quashed. It is directed that she is entitled and eligible to assume the office of President, Nagar Panchayat, Maro, forthwith.

31. The writ petition is allowed to the extent sketched herein-above leaving the parties to bear their own costs.

32. Before parting with the record, a note of caution to the State Election Commission is necessary. In the Indian context, where illiteracy is prevalent in a large measure, there is a duty on the part of the State Election Commission to counsel / inform suitably the duty to lodge election expenses on the part of the elected candidates who are illiterates, particularly belonging to SC / ST or downtrodden well in advance so that they may not suffer on account of their illiteracy / backwardness.

Sd/-  
(Sanjay K. Agrawal)  
Judge

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.2127 of 2017

Fohara Bai Miri

Versus

State of Chhattisgarh and others

Head Note

Ignorance of law is no excuse, but there is no presumption that every person knows the law.

विधि की अनभिज्ञता प्रतिहेतु (बहाना) नहीं है परन्तु ऐसा कोई पूर्वानुमान नहीं है कि प्रत्येक व्यक्ति को विधि ज्ञात है।

