

A.F.R.



2025:AHC-LKO:80035

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 11631 of 2025

Omkar Gupta

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Deptt. of Urban Deve. Lko and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Mudit Agarwal,
Counsel for Respondent(s)	: C.S.C., Abhishek Mishra, Anurag Kumar Singh, Sajjad Husain, Syed Aftab Ahmad

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri J. N. Mathur Senior Advocate assisted by Sri Mudit Agarwal Advocate, the learned counsel for the petitioner, Sri Rahul Shukla, the learned Additional Chief Standing Counsel appearing on behalf of the State/opposite parties no.1 and 2, Dr. L. P. Mishra, Sri Syed Aftab Ahmad and Sri Ayush Chaudhary Advocates, the learned counsel for the opposite party no.4 and perused the records.
2. By means of the instant petition filed under Article 226 of the Constitution of India the petitioner has challenged the validity of an order dated 04.11.2025, passed by learned Additional District Judge (F.T.C.-I), Ambedkar Nagar in Election Petition No.4 of 2023, whereby an application under Section 5 of Limitation Act for condonation of delay in filing election petition has been allowed, the delay in filing the election petition has been condoned and the preliminary issue that the election petition was barred by

the prescribed period of limitation, has been decided in the negative. Thereafter the election petition itself has been allowed by means of a judgment and order dated 15.11.2025 and the petitioner has challenged the validity of that judgment also.

3. As a purely legal issue is involved in this petition as to whether the delay in filing an Election Petition under the U. P. Municipalities Act, 1916 can be condoned under Section 5 of the Limitation Act, the learned Counsel for the opposite parties stated that they would not file any counter affidavit in the matter and they have opposed the Petition by advancing oral submissions.
4. Briefly stated, facts of the case are that in the elections conducted for the office of Chairman, Nagar Panchayat Ashrafpur Kichhauncha, the petitioner was one of the candidates. The polling was held on 11.05.2023 and result was declared on 13.05.2023, in which the petitioner was declared as the returned candidate and the opposite party no.4 stood at the fourth position.
5. On 18.07.2023 the opposite party no.4 filed an election petition challenging the election of the petitioner. The petitioner filed a written statement in response to the election petition *inter alia* pleading that the election result was declared on 13.05.2023 in presence of the election petitioner and he did not raise any objection and did not submit any representation alleging any irregularity/illegality committed in the election process. The election petition filed on 18.07.2023 is barred by the period of limitation as Section 20 of the Municipalities Act, 1916 provides that an election petition shall be presented within 30 days after the day on which the result of the election is announced.
6. On 04.09.2025 the petitioner filed an application requesting that the plea that the election petition is time-barred, gives rise to a preliminary issue affecting the maintainability of the petition, which should be framed and decided first.

7. On 22.09.2025, the opposite party no.4/election petitioner filed an application under Section 5 of the Limitation Act, 1963, stating that the result of the election was declared on 13.05.2023, as per section 20 (1) of the U. P. Municipalities Act, 1916, an election petition ought to have been filed within 30 days, there was a vacation in the courts from 01.06.2023 to 30.06.2023, and the election petition could have been submitted on 01.07.2023, but the election petition could not be filed within the prescribed limitation period as the election petitioner got some important information on 30.06.2023, and he got the relevant documents on 01.07.2023. Thereafter, the election petition was filed on 18.07.2023. The petitioner contended that a delay of 17 days had occurred in filing of the election petition, which was neither deliberate nor due to negligence, but it was due to sufficient cause, and he requested for condonation of the delay of 17 days in filing the election petition.
8. The petitioner filed objections against the application under Section 5 of the Limitation Act, stating that the delay in filing the election petition cannot be condoned under Section 5 of the Limitation Act.
9. On 30.10.2025, the learned Additional District and Sessions Judge framed issues in the election petition, and issue number 3 was whether the election petition was barred by limitation.
10. The aforesaid preliminary issue no.3 has been decided by the learned Additional District Judge by means of the impugned order dated 04.11.2025, holding that the election petitioner has stated that there was a delay of 17 days in filing the election petition, which had been admitted on the date of its filing. The learned Additional District Judge has relied upon the judgment of the Hon'ble Supreme Court in the case of **Improvement Trust, Ludhiana Vs. Ujagar Singh and others**: (2010) 6 SCC 786, wherein it has been held that ordinarily, applications seeking condonation of delay under Section 5 of the Limitation Act should be allowed and the matters should be decided on its merits; that the court should not adopt a technical approach, rather, it should adopt a liberal approach while deciding an application under Section 5 of the Limitation Act. However, this case related to condonation of

delay in filing a first appeal before the District Judge and the question whether Section 5 of the Limitation Act applies to election petitions, was not involved in this case.

11. Reliance has also been placed upon a decision of the Hon'ble Supreme Court in the case of **Abdul Ghafoor and Others Vs. State of Bihar**: A.I.R. 2012 Supreme Court 640, wherein the Hon'ble Supreme Court has held that the court should not adopt a hyper technical approach, but this matter related to condonation of delay in filing a criminal revision under Section 397 read with Section 401 Cr.P.C. and it also did not involve the question whether Section 5 of the Limitation Act applies to the election petitions.
12. The learned Additional District Judge held that the election petition had been filed with reasonable promptness. Section 151 of the Civil Procedure Code confers inherent powers on the court. Therefore, the learned Additional District Judge chose not to adopt a technical approach and allowed the application under Section 5 of the Limitation Act purportedly, 'in the interest of justice'.
13. Thereafter the petitioner prepared a petition challenging the order dated 04.11.2025 and while the same could be processed by the Registry of this court and be placed before this court for hearing, the petitioner filed an application for adjournment of the election petition due to the aforesaid reason. However, the trial court passed an order stating that the petitioner (respondent in the election petition) may advance submissions and further added that he declined to advance submissions.
14. On 15.11.2025, the petitioner again sought adjournment for 10 days, but this request was declined by the trial court and a judgment and order was passed allowing the election petition.
15. Assailing the validity of the impugned order dated 04.11.2025, Sri J. N. Mathur Senior Advocate has submitted that the provisions of Section 5 of the Limitation Act do not apply to an election petition filed under Section 20 Municipalities Act 1916. The learned counsel for the petitioner has relied

upon the judgments in the cases of **K.V. Rao Vs. B.N. Reddi**: 1968 SCC OnLine SC 285, **Hukumdev Narain Yadav Vs. Lalit Narain Mishra**: (1974) 2 SCC 133, **Hari Shanker Tripathi Vs. Shiv Harish**: (1976) 1 SCC 897, **Lachhman Das Arora Vs. Ganeshi Lal**: (1999) 8 SCC 532, **Suman Devi Vs. Manisha Devi**: (2018) 9 SCC 808, **Maneka Sanjay Gandhi Vs. Rambhual Nishad**: 2024 SCC OnLine All 4203, **Sharda Devi Dinesh Chaudhary Vs. State of U.P.**: (2012) SCC OnLine All 4160, **Jay Prakash and another Vs. Anjula Singh Mathur and another**: 2024 (3) All LJ 794, **Mahendra Vs. State of U.P. and others**: (2021) 4 AWC 4008 and **Heera Devi Vs. Additional District Judge and others**: (2011) Law Suit (All) 63.

16. Relying upon the judgment in the case of **Consolidated Engineering Enterprises Vs. Principal Secretary Irrigation Department and Others**: (2008) 7 SCC 169, wherein it was held that Section 3 and section 29(2) of the Limitation Act do not apply to tribunals, but the same apply to courts, Dr. L.P. Mishra, has submitted that while deciding the election petition, the learned Additional District Judge was acting as a Court and the provisions of Section 5 of the Limitation Act would apply to the election petition filed before a Court.
17. As per Dr. Mishra, as the U.P. Municipalities Act is a special law and it provides 30 days' limitation period for filing an election petition, the provisions contained in Sections 4 to 24, including Section 5 of the Limitation Act, shall apply, as it is not expressly excluded by any provision of the Municipalities Act.
18. Dr. L. P. Mishra has invited attention of this Court to the provision contained in Article 243-Z G (b) of the Constitution of India, which reads as follows: -

“243ZG. Bar to interference by courts in electoral matters

Notwithstanding anything in this Constitution,--

* * *

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.”

He has submitted that Article 243 ZG (b) uses the word ‘authority’ and not ‘tribunal’ and, therefore, the learned Additional District Judge while deciding the election petition is acting as an authority. He has submitted that the word ‘authority’ includes within its ambit courts, tribunals, and prescribed authorities.

19. Chapter XIV-A of the Constitution of India deals with Tribunals. It has only two Articles – Articles 323-A and 323-B, which read as follows: -

“323-A. Administrative Tribunals. - (1) Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

(2) A law made under clause (1) may—

(a) provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under Article 136, with respect to the disputes or complaints referred to in clause (1);

(e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

(f) repeal or amend any order made by the President under clause (3) of Article 371-D;

(g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

323-B. Tribunals for other matters.—*(1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.*

(2) The matters referred to in clause (1) are the following, namely:—

(a) levy, assessment, collection and enforcement of any tax;

(b) foreign exchange, import and export across customs frontiers;

(c) industrial and labour disputes;

(d) land reforms by way of acquisition by the State of any estate as defined in Article 31-A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;

(e) ceiling on urban property;

(f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in Article 329 and Article 329-A;

(g) production, procurement, supply and distribution of foodstuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;

(h) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;

(i) offences against laws with respect to any of the matters specified in sub-clauses (a) to (h) and fees in respect of any of those matters;

(j) any matter incidental to any of the matters specified in sub-clauses (a) to (i).

(3) A law made under clause (1) may—

(a) provide for the establishment of a hierarchy of tribunals;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts except the jurisdiction of the Supreme Court under Article 136, with respect to all or any of the matters falling within the jurisdiction of the said tribunals;

(e) provide for the transfer to each such tribunal of any cases pending before any court or any other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

(f) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as the appropriate Legislature may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(4) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Explanation.—In this article, “appropriate Legislature”, in relation to any matter, means Parliament or, as the case may be, a State Legislature competent to make laws with respect to such matter in accordance with the provisions of Part XI.”

He has submitted that Article 323-B deals with establishment of Tribunals by legislation. The District Judge deciding an election petition is not mentioned as a tribunal in Article 323B and, therefore, it is not a Tribunal and it is a Court.

20. Dr. Mishra has also submitted that although Section 23 of the Municipalities Act provides that procedure provided in the Civil Procedure Code in regard to suits shall, so far as it is not inconsistent with the Municipalities Act or any Rule and so far as it can be made applicable, be followed in the hearing of the hearing of election petitions, but it does not provide that an election petition shall be treated as a suit.

21. Dr. L. P. Mishra has also submitted that after passing of the judgment dated 15.11.2025, the District Magistrate, Ambedkar Nagar has issued an office order dated 19.11.2025 stating that consequent to the Election Petition having been allowed, office of Chairman, Nagar Panchayat Ashrafpur has become vacant, and he has appointed the Additional SDM, Akbarpur, as administrator of the Nagar Panchayat.

22. Dr. Mishra has drawn attention of the Court to Section 3 of the Bengal, Agra and Assam Civil Courts Act, 1887, which provides that there shall be the following classes of civil courts under the Act, namely:

- (1) The Court of the District Judge;
- (2) The Court of the Additional Judge;
- (3) The Court of the Subordinate Judge; and
- (4) The Court of the Munsif.

23. Firstly I proceed to examine whether the District Judge deciding an election petition is a Court or not. For doing so, it would be appropriate to have a look at the relevant parts of Sections 20, 22 and 23 of the U. P. Municipalities Act, 1916, which provide as follows: -

“20. Form and presentation of election petitions. - (1) An election petition shall be presented within 30 days after the day of which the result of the election sought to be questioned is announced by the Returning Officer, and shall specify the ground or grounds on which the election of the respondent is questioned and shall contain a concise statement of the material facts on which the petitioner relies and set for the full particulars of any corrupt practices that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practices and the dates and place of the commission of each such practice.

* * *

(5) The petition shall be presented to the District Judge exercising jurisdiction in the area in which the municipality, to which the election petition relates, is situate:

* * *

22. Hearing of election petition. - (1) An election petition not complying with the provisions of Section 20 or upon which the requisite court-fee has not been paid at the time of presentation or with in such further time not exceeding fourteen days as the District Judge, as the case may be, may have granted, shall be rejected by such Judge.

(2) An election petition not rejected under sub-section (1) shall be heard by the District Judge.

23. Procedure.- Except so far as may be otherwise provided by this Act or by rule, the procedure provided in the Civil Procedure Code (Act V of 1908) in regard to suits, shall, so far as it is not inconsistent with this Act or any rule and so far it can be made applicable, be followed in the hearing of election petitions:

Provided that, -

* * *

Provided that in computing the period of limitation the provision of sub-section (2) of Section 12 of the Limitation Act, 1963 shall apply.”

(Emphasis added)

24. It is relevant to note that the Municipalities Act originally provided for filing the election petition before the ‘Court’, but the word ‘Court’ was substituted by the phrase ‘District Judge’ by U.P. Act No. 17 of 1982.

25. In **Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker**: (1995) 5 SCC 5, the appellate authority constituted under Section 18 of the Kerala Buildings (Lease and Rent Control) Act, 1965 had dismissed the appeal as barred by time and it took the view that being not a court but a persona designata it has no power to condone the delay in filing appeal by invoking the provisions contained in Section 5 of the Limitation Act, 1963. Section 18 of the Kerala Buildings (Lease and Rent Control) Act, 1965 provides as follows: -

“18. Appeal.— (1)(a) The Government may, by general or special order notified in the Gazette, confer on such officers and authorities not below the rank of a Subordinate Judge the powers of appellate authorities for the purposes of this Act in such areas or in such classes of cases as may be specified in the order.

(b) Any person aggrieved by an order passed by the Rent Control Court may, within thirty days from the date of such order, prefer an appeal in writing to the appellate authority having jurisdiction. In computing the thirty days aforesaid, the time taken to obtain a certified copy of the order appealed against shall be excluded.

(2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall send for the records of the case from the Rent Control Court and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as it thinks fit either directly or through the Rent Control Court, shall decide the appeal.

Explanation.— The appellate authority may, while confirming the order of eviction passed by the Rent Control Court, grant an extension of time to the tenant for putting the landlord in possession of the building.

(4) The appellate authority shall have all the powers of the Rent Control Court including the fixing of arrears of rent.

(5) The decision of the appellate authority, and subject to such decision, an order of the Rent Control Court shall be final and shall not be liable to be called in question in any court of law, except as provided in Section 20.”

The Government of Kerala in exercise of its power under Section 18(1) has issued a notification conferring on District Judges the powers of appellate authority for the purpose of Kerala Rent Act. The appellate authority, namely the District Judge, took the view that since he was a persona designata, he could not resort to Section 5 of the Limitation Act for condoning the delay in filing appeal before him. The question before the Hon’ble Supreme Court was whether the District Judge was a persona designata or a Court. The Hon’ble Supreme Court referred to various precedents on the point and held that: -

“...It is now well settled that an authority can be styled to be persona designata if powers are conferred on a named person or authority and such powers cannot be exercised by anyone else. The scheme of the Act to which we have referred earlier contraindicates such appellate authority to be a persona designata. It is clear that the appellate authority constituted under Section 18(1) has to decide lis between parties in a judicial manner and subject to the revision of its order, the decision would remain final between the parties. Such an authority is constituted by designation as the District Judge of the district having jurisdiction over the area over which the said Act has been extended. It becomes obvious that even though the District Judge concerned might retire or get transferred or may otherwise cease to hold the office of the District Judge his successor-in-office can pick up the thread of the proceedings from the stage where it was left by his predecessor and can function as an appellate authority under Section 18. If the District Judge was constituted as an appellate authority being a persona designata or as a named person being the appellate authority as assumed in the present case, such a consequence, on the scheme of the Act would not follow. In this connection, it is useful to refer to a decision of this Court in the case of Central Talkies Ltd. v. Dwarka Prasad [AIR 1961 SC 606] . In that case Hidayatullah, J. speaking for the Court had to consider whether Additional District Magistrate empowered under Section 10(2) of Criminal Procedure Code to exercise powers of District Magistrate was a persona designata. Repelling the contention that he was a persona designata the learned Judge made the following pertinent observations:

“... A persona designata is ‘a person who is pointed out or described as an individual, as opposed to a person ascertained as a member of a class, or as filling a particular character’. (See Osborn's Concise Law Dictionary, 4th Edn., p. 253). In the words of Schwabe, C.J. in Parthasaradhi Naidu v. Koteswara Rao [AIR 1924 Mad 561 (FB)] , personae designatae are ‘persons selected to act in their private capacity and not in their capacity as Judges’. The same consideration applies also to a well-known officer like the District Magistrate named by virtue of his office, and whose powers the Additional District Magistrate can also exercise and who can create other officers equal to himself for the purposes of the Eviction Act. The decision of Sapru, J. in the Allahabad case, with respect, was erroneous.”

Applying the said test to the facts of the present case it becomes obvious that appellate authorities as constituted under Section 18 of the Rent Act being the District Judges they constituted a class and cannot be considered to be persona designata....”

The Hon’ble Supreme Court further held that: -

“8. Once it is held that the appellate authority functioning under Section 18 of the Rent Act is not a persona designata, it becomes obvious that it functions as a court. In the present case all the District Judges having jurisdiction over the areas within which the provisions of the Rent Act have been extended are constituted as appellate authorities under Section 18 by the Government notification noted earlier. These District Judges have been conferred the powers of the appellate authorities. It becomes therefore, obvious that while adjudicating upon the dispute between the landlord and tenant and while deciding the question whether the Rent Control Court's order is justified or not such appellate authorities would be functioning as courts. The test for determining whether the authority is functioning as a court or not has been laid down by a series of decisions of this Court. We may refer to one of them, in the case of Thakur Jugal Kishore Sinha v. Sitamarhi Central Coop. Bank Ltd. [AIR 1967 SC 1494] In that case this Court was concerned with the question whether the Assistant Registrar of Cooperative Societies functioning under Section 48 of the Bihar and Orissa Cooperative Societies Act, 1935 was a court subordinate to the High Court for the purpose of Contempt of Courts Act, 1952. While answering the question in the affirmative, a Division Bench of this Court speaking through Mitter, J. placed reliance amongst others on the observations found in the case of Brajnandan Sinha v. Jyoti Narain [AIR 1956 SC 66] wherein it was observed as under:

“It is clear, therefore, that in order to constitute a court in the strict sense of the term, an essential condition is that the court should have, apart from having some of the trappings of a judicial tribunal, power to give a decision or a definitive judgment which has finality and

authoritativeness which are the essential tests of a judicial pronouncement.”

Reliance was also placed on another decision of this court in the case of Virindar Kumar Satyawadi v. State of Punjab [(1955) 2 SCR 1013 : AIR 1956 SC 153] . Following observations found (at SCR p. 1018) therein were pressed in service:

“It may be stated broadly that what distinguishes a court from a quasi-judicial tribunal is that it is charged with a duty to decide disputes in a judicial manner and declares the rights of parties in a definitive judgment. To decide in a judicial manner involves that the parties are entitled as a matter of right to be heard in support of their claim and to adduce evidence in proof of it. And it also imports an obligation on the part of the authority to decide the matter on a consideration of the evidence adduced and in accordance with law. When a question therefore arises as to whether an authority created by an Act is a court as distinguished from a quasi-judicial tribunal, what has to be decided is whether having regard to the provisions of the Act it possesses all the attributes of a court.”

When the aforesaid well settled tests for deciding whether an authority is a court or not are applied to the powers and functions of the appellate authority constituted under Section 18 of the Rent Act, it becomes obvious that all the aforesaid essential trappings to constitute such an authority as a court are found to be present. In fact, Mr Nariman, learned counsel for respondent also fairly stated that these appellate authorities would be courts and would not be persona designata. But in his submission as they are not civil courts constituted and functioning under the Civil Procedure Code as such, they are outside the sweep of Section 29(2) of the Limitation Act. It is therefore, necessary for us to turn to the aforesaid provision of the Limitation Act. It reads as under:

“29. (2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law.”

A mere look at the aforesaid provision shows for its applicability to the facts of a given case and for importing the machinery of the provisions containing Sections 4 to 24 of the Limitation Act the following two requirements have to be satisfied by the authority invoking the said provision.

(i) There must be a provision for period of limitation under any special or local law in connection with any suit, appeal or application.

(ii) The said prescription of period of limitation under such special or local law should be different from the period prescribed by the Schedule to the Limitation Act.

9. If the aforesaid two requirements are satisfied the consequences contemplated by Section 29(2) would automatically follow. These consequences are as under:

(i) In such a case Section 3 of the Limitation Act would apply as if the period prescribed by the special or local law was the period prescribed by the Schedule.

(ii) For determining any period of limitation prescribed by such special or local law for a suit, appeal or application all the provisions containing Sections 4 to 24 (inclusive) would apply insofar as and to the extent to which they are not expressly excluded by such special or local law.”

26. **Mukri Gopalan** (Supra) has been overruled on the point of applicability of the Limitation Act to Tribunals in **Consolidated Engineering Enterprises Vs. Principal Secretary Irrigation Department and Others**: (2008) 7 SCC 169, but the ratio laid down in this case regarding the difference in Courts and persona designata still holds the field.

27. In **LIC v. Nandini J. Shah**: (2018) 15 SCC 356, the seminal question was whether the order passed by the City Civil Court in exercise of power under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, as an Appellate Officer, is in the capacity of a civil court or *persona designata*? The Hon’ble Supreme Court noted that Sub-section (1) of Section 9 postulates that an appeal shall lie from every order of the Estate Officer, passed under the Act, to an Appellate Officer. The District Judge of the district in which the public premises are situated or such other judicial officer in that district of not less than 10 years' standing as the District Judge is to be designated for that purpose. The Hon’ble Supreme Court held that: -

“35. ...The first part of the provision does suggest that the appeal shall lie to an Appellate Officer; however, it does not follow therefrom that the Appellate Officer is persona designata. Something more is required to hold so. Had it been a case of designating a person by name as an

Appellate Officer, the concomitant would be entirely different. However, when the Appellate Officer is either the District Judge of the district or any another judicial officer in that district possessing necessary qualification who could be designated by the District Judge, the question of such investiture of power of an appellate authority in the District Judge or Designated Judge would by no standards acquire the colour or for that matter trappings of persona designata. In the first place, the power to be exercised by the Appellate Officer in terms of Section 9 is a judicial power of the State which is quite distinct from the executive power of the State. Secondly, the District Judge or designated judicial officer exercises judicial authority within his jurisdiction. Thirdly, as the Act predicates the Appellate Officer is to be a District Judge or judicial officer, it is indicative of the fact of a pre-existing authority exercising judicial power of the State. Fourthly, the District Judge is the creature of Section 5 of the Maharashtra Civil Courts Act, 1869, who presides over a District Court invariably consisting of more than one Judge in the district concerned. The District Court exercises original and appellate jurisdiction by virtue of Sections 7 and 8 respectively, of the 1869 Act and is the principal court of original civil jurisdiction in the district within the meaning of CPC, as per Section 7 of that Act. As per Section 8 of the Act of 1869, the District Court is the court of appeal from all decrees and orders passed by the subordinate courts from which an appeal lies under any law for the time being in force.

* * *

37. On the similar lines, the Bombay City Civil Court has been constituted under Section 3 of the Bombay City Civil Court Act, 1948, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within Greater Bombay except a suit or proceedings which are cognizable by the High Court referred to therein and by the Small Cause Court. Section 7 of this Act envisages that when the City Civil Court consists of more than one Judge, each of the Judges may exercise all or any of the powers conferred on the court by the said Act or any other law for the time being in force. Clause (b) of Section 7 stipulates that the State Government may appoint any one of the Judges to be the Principal Judge and any two other Judges to be called the Additional Principal Judges. The Principal Judge has been given authority to make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof. In other words, the District Judge or the Principal Judge exercises judicial power of the State and is an authority having its own hierarchy of superior and inferior courts, the law of procedure according to which it would dispose of matters coming before it depending on its nature and jurisdiction exercised by it, acting in judicial manner. The District Judge or Principal Judge of the City Civil Court is the officer presiding over the court and derives his description

from the nomenclature of the court. Even if the District Judge/Principal Judge of the City Civil Court might retire or get transferred, his successor-in-office can pick up the thread of the proceedings under Section 9 of the 1971 Act from the stage where it was left by his predecessor and can function as an appellate authority. The District Judge/Principal Judge of the City Civil Court and other judicial officers of these courts possessing necessary qualifications constitute a class and cannot be considered as persona designata. The Appellate Officer, therefore, has to function as a court and his decision is final in terms of Section 10 of the 1971 Act. The legislative intent behind providing an appeal under Section 9 before the Appellate Officer to be the District Judge of the District Court concerned in which the public premises are situated or such other judicial officer in that district possessing necessary qualification to be designated by the District Judge for that purpose, is indicative of the fact that the power to be exercised by the Appellate Officer is not in his capacity as persona designata but as a judicial officer of the pre-existing court.

* * *

47. Notably, the expression “Appellate Officer” has not been defined in the 1971 Act, unlike the definition of “Estate Officer” contained in Section 2(b) of that Act. The Appellate Officer cannot be considered as a statutory authority, as defined in the dictionary clause in Section 2(fa) of the 1971 Act. In Thakur Das [Thakur Das v. State of M.P., (1978) 1 SCC 27], in para 9, while analysing the cleavage of opinion of the High Courts, it is noticed that the expression “judicial authority” would comprehend the Additional Sessions Judge or the Sessions Judge could transfer such appeal pending before him to the Additional Sessions Judge which was a pointer to the fact that he was not a persona designata. Even in respect of the appeal under Section 9 of the 1971 Act, the Principal Judge of the City Civil Court or District Judge is competent to hear the appeal himself or designate some other judicial officer within his jurisdiction possessing requisite qualification. It will be useful to advert to Section 7 of the City Civil Courts Act and Sections 3, 5 and 7 of the Maharashtra Civil Courts Act. It is implicit in Section 9 read with the provisions of the Acts constituting the District Judiciary that the head of the district judiciary is the District Judge or Principal Judge of the City Civil Court and Section 9 of the 1971 Act makes it explicit, by investing authority in the District Judge or Principal Judge of the City Civil Court, to designate any other judicial officer within his jurisdiction possessing essential qualifications, to hear such appeals. This is a clear departure from the appointment of a District Judge as a persona designata. The Additional District Judge or judicial officer possessing essential qualification, therefore, is not an inferior Appellate Officer within the meaning of Section 9 of the 1971 Act. In our opinion, there is enough indication in Section 9 of the 1971 Act to spell out the legislative intent that the remedy of appeal before the Appellate Officer

is not before a persona designata but a pre-existing judicial authority in the district concerned.

58. In other words, the Appellate Officer while exercising power under Section 9 of the 1971 Act, does not act as a persona designata but in his capacity as a pre-existing judicial authority in the district (being a District Judge or judicial officer possessing essential qualification designated by the District Judge). Being part of the district judiciary, the judge acts as a court and the order passed by him will be an order of the subordinate court against which remedy under Article 227 of the Constitution of India can be availed on the matters delineated for exercise of such jurisdiction.”

28. The Municipalities Act originally provided for filing the election petition before the ‘Court’, but the word ‘Court’ was substituted by the phrase ‘District Judge’ by U.P. Act No. 17 of 1982. As per Section 3 of the Bengal, Agra and Assam Civil Courts Act, 1887, the District Judge is a Civil Court. While deciding an election petition, the District Judge has all the powers of a Civil Court. Section 23 of the Municipalities Act provides that while deciding an election petition the District Judge shall follow the procedure provided in the Civil Procedure Code in regard to suits, so far as it is not inconsistent with the Municipalities Act or any rule and so far as it can be made applicable, be followed in the hearing of election petitions. There is no reason justifying to hold that while deciding an election petition, the District Judge does not act as a Court and it acts as a tribunal or a persona designata.

29. In view of the foregoing discussion, I am of the considered view that while deciding an election petition, the District Judge acts as a ‘Court’.

30. The second question to be decided is whether the provisions of Section 5 of the Limitation Act would apply to the election petitions in view of the provision contained in Section 29 (2) of the Limitation Act, which provides as follows: -

“29. Savings.—

(1).....

(2). *Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed*

by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.”.

31. Dr. L. P. Mishra has submitted that an election petition filed under the Municipalities Act is not a suit and it is termed as a petition, which would fall in the category of applications. He has submitted that as the District Judge deciding an election petition acts as a court, as per Section 29 (2) of the Limitation Act, the provisions of Section 5 would apply to the election petition filed before it.
32. Although an election petition is not a suit, Section 23 of the Municipalities Act provides that except so far as may be otherwise provided by the Act or by any rule, the procedure provided in the Civil Procedure Code (Act V of 1908) in regard to suits, shall, so far as it is not inconsistent with this Act or any rule and so far it can be made applicable, be followed in the hearing of election petitions. The Proviso appended to Section 23 of the Municipalities Act specifically provides that the provisions of sub-section (2) of Section 12 of the Limitation Act shall apply in computing the period of limitation.
33. In **K.V. Rao v. B.N. Reddi**: 1968 SCC OnLine SC 285, while dealing with the issue of condonation of delay in filing an election petition under the Representation of the People Act, 1951, Hon’ble Supreme Court held that: -

*“12. It is well settled that amendments to a petition in a civil proceeding and the addition of parties to such a proceeding are generally possible subject to the law of limitation. But **an election petition stands on a different footing. The trial of such a petition and the powers of the court in respect thereof are all circumscribed by the Act.** The Indian Limitation Act of 1963 is an Act to consolidate and amend the law of limitation of suits and other proceedings and for purposes connected therewith. The provisions of this Act will apply to all civil proceedings and some special criminal proceedings which can be taken in a court of law unless the application thereof has been excluded by any enactment : the extent of such application is governed by Section 29(2) of the Limitation Act. In our opinion however **the Limitation Act cannot apply***

to proceedings like an election petition inasmuch as the Representation of the People Act is a complete and self-contained code which does not admit of the introduction of the principles or the provisions of law contained in the Indian Limitation Act.”

(Emphasis added)

34. In **Hukumdev Narain Yadav v. Lalit Narain Mishra**: (1974) 2 SCC 133, the Hon’ble Supreme Court was again dealing with the issue of condonation of delay in filing an election petition under the Representation of the People Act, 1951 and it held that “*the provisions of Section 5 of the Limitation Act do not govern the filing of election petitions or their trial and in this view, it is unnecessary to consider whether there are any merits in the application for condonation of delay.*”
35. In **Lachhman Das Arora v. Ganeshi Lal**: (1999) 8 SCC 532, the Hon’ble Supreme Court held that: -

“7. ...No period for filing of an election petition is prescribed under the Indian Limitation Act. The Act insofar as it relates to presentation and trial of election disputes is a complete code and a special law. The scheme of the special law shows that the provisions of Sections 4 to 24 of the Indian Limitation Act do not apply. If an election petition is not filed within the prescribed period of forty-five days, Section 86(1) of the Act, which provides 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, is straightaway attracted.”
36. All the aforesaid judgments have been followed by the Hon’ble Supreme Court in **Suman Devi v. Manisha Devi**: (2018) 9 SCC 808 and by a coordinate Bench of this Court in **Maneka Sanjay Gandhi v. Rambhual Nishad**: 2024 SCC OnLine All 4203. As the aforesaid judgments deal with condonation of delay in filing election petitions under the Representation of the People Act, 1951, but the relevant provisions contained in the Representation of the People Act, 1951 are similar to those contained in the Municipalities Act. Therefore, the principle of law that the provisions contained in Section 5 of the Limitation Act would not apply to the election petitions filed under the Representation of the People Act, will also apply to the election petitions filed under the Municipalities Act, 1916.

37. The aforesaid view is fortified by the fact that the proviso appended to Section 23 (2) of the Municipalities Act provides that the provision contained in Section 12 (2) of the Limitation Act would apply to the election petitions filed under this Act. When the legislature has specifically provided for application of a particular provision of the Limitation Act and has not made the other provisions applicable to it, Section 5 of the Limitation Act would not apply to the election petitions filed under the Municipalities Act.
38. Although an election petition filed under Section 20 of the Municipalities Act is not a suit, it is an original proceeding which has to be decided in the manner provided for decision of suits. Section 5 of the Limitation Act does not apply to suits. For this reason also, Section 5 of the Limitation Act would not apply to filing of election petitions under the Municipalities Act, 1916.
39. In view of the foregoing discussion, I am of the considered view that the provisions of Section 5 of the Limitation Act would not apply to an election petition filed under Section 20 of the Municipalities Act. The impugned order dated 04.11.2025, passed by the learned Additional District Judge, allowing the application under Section 5 of the Limitation Act is unsustainable in law and the same is set aside. The judgment and order dated 15.11.2025 allowing the election petition is also unsustainable in law as being barred by the limitation period; the election petition was liable to be dismissed.
40. Accordingly, the petition is allowed. The impugned order dated 04.11.2025, passed by learned Additional District Judge (F.T.C.-I), Ambedkar Nagar in Election Petition No.4 of 2023 is set aside. Consequently the judgment and order dated 15.11.2025 passed in the aforesaid case is also set aside and the election petition is dismissed. All necessary consequences shall follow. It goes without saying that the office order dated 19.11.2025 issued by the District Magistrate, Ambedkar Nagar, appointing an administrator as the office of the Chairman, Nagar Panchayat, had fallen vacant consequent to the election petition being allowed, would *ipso facto* stand nullified consequent to the dismissal of the election petition

and consequently the petitioner shall be entitled to continue as Chairperson of Nagar Panchayat concerned.

(Subhash Vidyarthi,J.)

December 03, 2025

Ram.