

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3802 of 2015

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1. Surendra Kumar, son of Sri Ram Naresh Yadav, Resident of Village-Mohanchak, Post-Akhtiyarpur, P.S.- Vikram, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar,
2. The Secretary, State Election Commission, Bihar ,
3. The District Officer-cum-District Election Officer(Nagar Palika) Patna,
4. The Deputy Election Officer, Patna,
5. The Election Officer, Nagar Panchayat, Vikram, Patna-cum-Deputy Collector Land Reforms, Paliganj
6. Sunita Devi of Mohanchak, Post-Akhtiyarpur, P.S.- Vikram, District-Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Verma, Adv.

For the Respondent/s : Mr. R.K. Singh, GP-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 23-03-2015 Learned counsel for the parties are present and have been heard.

The writ petition has been filed questioning the order dated 28.2.2015 passed by the Election Officer, Nagar Panchayat, Vikram-cum-Deputy Collector Land Reforms Department, Patna the respondent No. 5 whereby the nomination of the petitioner filed for contesting the election of Ward Councillor, Ward No. 12 scheduled to be held on 15.3.2015, has been rejected.

Mr. Shailendra Kumar Verma learned counsel for the petitioner while questioning the impugned order of rejection of

nomination has submitted that not only the nomination of the petitioner has been improperly rejected without application of mind rather a manipulated nomination of the private respondent has been wrongfully accepted and thus the act of the respondents in both circumstances, is unsustainable.

Learned counsel on the strength of the judgment of this Court reported in **2014(4) PLJR 487 (Pramila Sinha Vs. State)** has submitted that this Court has held that in exceptional circumstances a rejection of nomination can be considered by the writ Court.

I have heard learned counsel for the parties.

The order dated 28.2.2015 is impugned at Annexure-5 and which manifests that the nomination of the petitioner was rejected inter alia on grounds of ineligibility of his proposer.

Whether his rejection and the acceptance of the nomination of the private respondent is valid or is manipulated, is a debatable issue to be adjudicated by way of an election dispute as held by the Division Bench of this Court in the case reported in **2010(3) PLJR 578 (N.S. Madhavan Vs. Shyamdeo Prasad)**. The judgment rendered in the case of **Pramila Sinha** (supra) was in different circumstances and would not apply to the present case.

The petitioner has his remedy under the provisions of the

Bihar Municipal Election Rules framed under the Bihar Municipal Act, 2007 and he would be at liberty to take recourse to the same before the State Election Commission.

The writ petition is disposed of.

(Jyoti Saran, J)

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