

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1889 of 2015

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Chhedi Rai son of Sanichar Rai, resident of village-Jakha, P.S- Dhoraiya,
District- Banka

.... Petitioner/s

Versus

1. The State of Bihar
2. The State Election Commission, Bihar, Patna, through its Secretary.
3. Secretary-cum-Director, Gram Panchayat Raj, Government of Bihar,
Patna.
4. District Magistrate, Banka, District- Banka.
5. Sub Divisional Officer, Banka, Distt- Banka.
6. Block Development Officer, Dhoraiya, Distt- -Banka.

.... Respondent/s

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Appearance:

For the Petitioner/s	:	Mr. Mritunjay Prasad Singh, Advocate
For the Respondent/s	:	Mr. Kumar Manish, SC-21
		Mr. Alok Kumar, Assisting Counsel to SC-21
For the State E.C.	:	Mr. Amit Shrivastava, Advocate
		Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 21-09-2015 Heard Mr. Mritunjay Prasad Singh, learned counsel

appearing for the petitioner and learned counsel for the State

Election Commission.

The petitioner is aggrieved by the order dated 18.4.2013
passed by the District Magistrate, Banka whereby the prayer of the
petitioner to alter the headquarter of the Gram Panchayat in
question from village Logain to village Jakha has been disposed of
with a liberty to the petitioner that whenever in future there would
be a reorganization of the Panchayat in question on the basis of

population, the petitioner would be at liberty to file his application for change in the situs of the headquarter of the Panchayat.

Mr. Singh, learned counsel appearing on behalf of the petitioner submits that it is on the basis of the census held in the year 1991 and considering that the population of the village Logain was greater than village Jakha that the headquarter was fixed as such but by the next census held in the year 2001 the population of the village Jakha overshoot the population of village Logain and it is in such circumstances that the petitioner approached this Court in CWJC No. 5008 of 2008. The writ petition was disposed of in the light of the second proviso to Section 127 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act'). It so appears that the petitioner filed an application of review bearing Civil Review No. 390 of 2011 but it was subsequently withdrawn seeking liberty to approach the District Magistrate in the matter. The petitioner thereafter has approached the District Magistrate, Banka with his prayer and which has been disposed of in the light of the second proviso to Section 127 of the Bihar Panchayat Raj Act, 2006 which runs as follows:

“Provided further that notwithstanding any other provision contained in this Act, until the relevant figures for the census taken in the year 2011 are

published, it shall not be necessary for the government to re-determine the number of elected members on the basis of population of the Panchayat area ascertained at the 2001 census.”

It is taking note of the statutory provisions underlying the second proviso to Section 127 of the ‘Act’ which has been incorrectly mentioned as Section 137 in the impugned order, that the representation of the petitioner was disposed of reserving liberty for him to re-agitate the issue in view of the statutory provisions so discussed hereinabove and considering the liberty so provided under the impugned order to the petitioner, I do not feel persuaded to interfere with the same and the writ petition is accordingly disposed of.

(Jyoti Saran, J)

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