

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17218 of 2011

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1. Macchia Devi W/O Hareram Mahto Resident Of Village Tarsan, Police Station
Kurhani, District-Muzaffarpur.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, Muzaffarpur.
4. The District Panchayat Raj Officer, Muzaffarpur.
5. The Circle Officer, Kurhani, Muzaffarpur.
6. The Block Development Officer, Kurhani, Muzaffarpur.
7. The Block Welfare Officer, Kurhani, Muzaffarpur.
8. Angoori Khatoon W/O Md. Alishan Resident Of Village-Sumera, Police Station
Kurhani, District-Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar

For the Respondent/s : Mr. Devendra Kr Sinha AAG-2

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 21-09-2015

Heard Mr. Rajesh Kumar for the petitioner, Mr. Vindhya
Keshri Kumar for the respondent no. 8 and A.C. to A.A.G-II for the
State.

The petitioner contested the Mukhiya election against
respondent no. 8 for which election was held in the year 2011. The
respondent no. 8 claimed herself to be member of the Most Backward
Community/Caste having married a male of that community/caste.
Having been issued the certificate, she contested the election and was
declared elected defeating the petitioner. Instead of filing an election
dispute, the present writ petition has been filed questioning the caste

status of the respondent no. 8. According to her, Respondent no. 8 belonged to Sheikh community.

It is contended that some enquiry has been made in this regard but the matter has not finally been disposed of. The representation of the petitioner in this regard is pending consideration before the District Magistrate, Muzaffarpur. The application be disposed of either by directing the District Magistrate to take appropriate decision in the matter and/or permitting her to pursue the said matter before the District Magistrate.

Mr. Kumar conversely submitted that the respondent no. 8 after getting the status of Most Backward Caste had contested election at least on three occasions and declared successful. The writ petition should not be entertained as any such matter could have been raised by way of election dispute which the petitioner has not done. The enquiry on which the petitioner relies was not conducted after giving an opportunity of hearing to the respondent no. 8.

In my view, the writ application merits to be disposed of by permitting the petitioner to pursue the matter before the respondent District Magistrate (respondent no. 3) for taking a final decision in the matter on her representation in the light of materials either to be collected afresh or already collected in accordance with law. It is expected a decision on her representation would be taken by the

respondent District Magistrate, if not already taken or disposed of, as quickly as possible preferably within four months from the date of receipt/production of a copy of this order before him.

Pankaj/-

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(Kishore Kumar Mandal, J)