

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.727 of 2014

In

Civil Writ Jurisdiction Case No. 8878 of 2013

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Md. Rejauddin S/o Late Md. Mohiuddin R/o Vill+ P.O- Sangram, P.S- Jhanjharpur, District- Madhubani

.... Petitioner-Appellant/s

Versus

1. The State of Bihar through the District Election Officer Madhubani.
2. Sub- Divisional Officer, Jhanjharpur cum returning officer, Jhanjharpur, District- Madhubani.
3. Assistant returning officer, Jhanjharpur, District- Madhubani Cum blocks Development Officer Jhanjharpur, District- Madhubani.
4. State Election Commission, through its Chief Commissioner, Sone Bhawan, Patna.
5. Md. Sanaullah Rahmani Son of Lutfullah Rahmani Resident of Village- Pirprolia, P.O- Araria, P.S- Jhanjharpur, District- Madhubani.
6. Md. Amjad Son of Md. Harun R/o Vill+ P.O- Sangram, P.O- Tulapatganj, P.S- Jhanjharpur, District- Madhubani
7. Md. Imtaj Son of Md. Abdul Khalique resident of Vill+ P.O- Chanoraganj, P.S- Jhanjharpur, District- Madhubani.
8. Uday Narayan Thakur Son of Late Hazari Thakur Resident of village AND P.O- Bistol, P.S- Jhanjharpur, District- Madhubani
9. Kameshwar Kamti Son of Late Madhukar Kamt resident of Vill+ P.O- Simra, P.S- Jhanjharpur, District- Madhubani.
10. Dinesh Mahto Son of Omprakash Mahto resident of Sirkharia, P.S- Jhanjharpur, District- Madhubani.
11. Navnit Kumar Son of Late Devbrat Das resident of village Post Simra, P.S- Jhanjharpur, District Madhubani.
12. Ram Ratan Pradhan Son of Late Bharat Pradhan resident of Vill+ P.O- Chanoraganj, P.S- Jhanjharpur, District- Madhubani.
13. Shatrudhan Prasad Singh Son of Late Kapleshwar Prasad Singh Resident of Village Parsa, Via Tulapatganj, P.S- Jhanjharpur, District- Madhubani.

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Diwakar Prasad Singh
For the State : Mr. Kundan Bahadur Singh, SC 22
For Respondent No.4 : M/s. Amit Shrivastava, Girish Pandey
For Respondent no. 5 : Mr. Shivendra Lal Das
For Respondents nos. 9 to 12: Mr. Om Prakash Singh

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CORAM: HONOURBLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

10 07-07-2015

This appeal arises out of the order dated 16.1.2014 passed by the learned Single Judge in CWJC No. 8878 of 2013.

The relevant facts are that the appellant and the 5th respondent, along with certain others, participated in the election held in May, 2011 for the membership to the Zila Parishad, Madhubani. The 5th respondent was declared elected with a majority of 23 votes. Aggrieved by the result, the appellant filed Election Case No. 4 of 2011 before the Election Tribunal-cum-Sub Judge III, Jhanjharpur. The ground pleaded was that the Election Commission debarred one Sri Subodh Kumar Jha from functioning as Assistant Returning Officer, and still the said officer participated in the counting of votes, adversely affecting the result.

The Tribunal dismissed the Election Case on 7.12.2012. Challenging the same, the appellant filed the present writ petition. That was also rejected by the learned Single Judge through order dated 16.1.2014.

On 24.6.2015, extensive arguments were advanced before us. On finding that Form Nos. 20 and 21 were not issued in the prescribed manner and by assigning certain other reasons, we directed the Election Commission to undertake recounting of the vote and submit the result of the same in a sealed cover.

Today, learned counsel for the Election Commission placed before us the result of recounting together with all the minor details. The particulars furnished in Form Nos. 20 and 21 reveal that the appellant secured 3283 votes, whereas the 5th respondent secured 3349 votes. The result is that the 5th respondent secured 66 votes more than the appellant.

In that view of the matter, we do not find any justification to interfere with the order of the learned Single Judge passed in CWJC No. 8878 of 2013.

The Letters Patent Appeal is accordingly dismissed.

Since there is no change in the result, it shall not be necessary to issue any fresh notification.

The record pertaining to recounting is handed over to the learned Standing Counsel for the Election Commission.

Interlocutory Application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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