

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.482 of 2015

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Uday Sharma son of Shri Sukh Nandan Singh, resident of village
Madhopur, P.S. Maner, District Patna

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Panchayat Raj Govt. of Bihar, Patna.
2. The District Magistrate, Patna
3. State Election Commission through the Secretary Birchand Patel Path, Sone Bhawan, Bihar, Patna
4. District Magistrate cum District Election Officer, Panchayat, Bihar, Patna
5. Deputy Secretary, Gram Panchayat Raj, Patna
6. Triloki Prasad son of Sri Balram Prasad resident of village+ P.O. Madhopur, P.S. Maner, District Patna

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ram Prawesh Kumar, Adv.

For the Respondent/s : Mr. Neelu Agrwal, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 23-02-2015 Heard learned counsel for the parties.

The limited grievance of the petitioner in this writ petition is that a complaint filed by him before the State Election Commission under Section 136(2) of the Bihar Panchayat Raj Act, 2006 has remained pending and a copy of which is placed at Annexure 2 to the writ petition.

The petitioner through the complaint petition has questioned the election of the private respondent No. 6 inter alia on grounds that even while holding the post of Lecturer in the Ram Nagina Singh Inter College at Maner in the District of Patna, he filed his nomination and has been successful in the election. It is his case that since the fact that the petitioner was working as a Lecturer in

the College was suppressed by him in the nomination form hence he stands disqualified to contest the election and which should be declared void.

Mr. Girish Pandey has appeared on behalf of the Commission and with reference to the letter written by the Commission to the District Magistrate-cum-District Election Officer, Patna placed at Annexure-3 series submits that right after receipt of the complaint on 15.6.2012 that immediately on 22.6.2012 the District Magistrate was required to hold enquiry and give his report on the complaint and which request has been continuously made by the Commission before the District Magistrate, Patna but in absence of any report as to the complaint made by the petitioner that the matter has not progressed any further.

In my opinion, whether the respondent was holding the post of Lecturer at the time of filing of the nomination for contesting the election to the Mukhiya, Gram Panchayat, Madhopur, is a fact which could have been ascertained from the college concerned and Commission could well have issued notice to the College to respond to the allegation and respond as to whether the respondent no. 6 held the post of Lecturer on the date of filing of the nomination form in 2011. Unnecessarily the matter has been delayed by the Commission right since 2012 awaiting report of the District Magistrate when the concerned parties to the complaint

should have been noticed to respond to the allegations. An election held in 2011 would be rendered infructuous by reason of the laches of the Commission in effectual disposal of the matter.

Be that as it may, that it is four years since the election and three years since the complaint was filed and even the petitioner appears to have committed lapses in as much as it transpires that the writ petition though was moved in the year 2013 but has been acted upon by the petitioner for removal of defect only in 2015.

Considering the circumstances discussed hereinabove, the writ petition is disposed of with a direction to the District Magistrate, Patna to consider the request of the Election Commission as is manifest from Annexure-3 series in the backdrop of the complaint filed by the petitioner, a copy of which is placed at Annexure-2 and submit his report expeditiously and preferably within 8 weeks from today and whereafter the Commission would be well advised to consider and dispose of the complaint expeditiously and after giving an opportunity of hearing to the contesting parties including the private respondent.

The writ petition is disposed of with the direction aforementioned.

(Jyoti Saran, J)

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