

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4832 of 2014

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1. Sanjay Kumar Son of Sri Yamuna Prasad Singh Resident of Mohallah-Patel Nagar (South), Ward No. 10 Kochas Nagar Panchayat, P.O. And P.S.-Kochas, District- Rohtas At Sasaram (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development And Housing, Government Of Bihar, Patna
2. Chief Election Commissioner, State Election Commission, Sone Bhawan, Bir Chand Patel Marg, Patna
3. The Divisional Commissioner, Patna Division, Patna
4. The District Magistrate-Cum-District Election Officer (Nagarpalika), Rohtas, Sasaram
5. The Additional Collector, Rohtas at Sasaram
6. The Sub Divisional Officer, Sasaram, District- Rohtas
7. The District Panchayat Raj Officer, Rohtas at Sasaram
8. Circle Officer Cum Executive Officer, Nagar Panchayat, Kochas, P.O. And P.S.- Kochas, District- Rohtas
9. The Block Development Officer, Kochas, P.O. And P.S.- Kochas, District- Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar Mishra, Adv.
Mr. Nikhil Agrawal, Adv.

For the Respondent-State: Mr. Saroj Kumar Sharma, A.C. to A.A.G.5

For the S.E.C : Mr. Amit Srivastava, Adv.
Mr. Girish Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 20-04-2015 Heard Mr. Nikhil Agrawal, learned counsel for the petitioner, Mr. Saroj Kumar Sharma, learned counsel for the State and Mr. Amit Srivastava, learned counsel for the State Election Commission.

The petitioner had come before this Court through a public interest litigation raising issues of irregularities in the preparation of an electoral roll relatable to 16 wards constituting the Nagar

Panchayat, Kochas in the District of Rohtas.

The matter was heard by the Division Bench and the Division Bench was of the opinion that the issues raised by the petitioner did not qualify as a public interest litigation and it is in the light of opinion expressed by the Division Bench that the matter is before this Court.

Mr. Nikhil Agrawal, learned counsel for the petitioner while questioning the voter list of the Nagar Panchayat has referred to the directives issued by the State Election Commission as contained in its letter dated 8.10.2013 addressed to the District Magistrate-cum- District Election Officer (Municipality), Rohtas placed at Annexure-1 to submit that the State Election Commission considering the constitution of the Nagar Panchayat, Kochas had issued a specific directives in relation to preparation of the voter list and an obligation was cast upon the District Magistrate or an officer so authorized by him not below the rank of a Sub Divisional Magistrate to consider the objections filed in this regard which can be found in paragraphs 10 and 11 of the directives. He submits that the directives so issued remained on papers in as much as although the petitioner along with about 2000 voters constituting the Nagar Panchayat represented before the District Magistrate, Rohtas on 10.2.2014 raising their grievance

regarding irregularities in the voter list as well as their non inclusion but which objection never got disposed of and in the meantime the election has already taken place.

Mr. Agrawal learned counsel for the petitioner while fairly admitting that the issue raised by this petitioner has taken a backseat by the holding of the election but submits that its importance would not get diluted by holding of the election in as much as these approximately 2000 voters of the Nagar Panchayat would continue to remain outside the voter list until such time that the district authorities pay attention to the directives issued by the State Election Commission regarding disposal of the objections so filed in this regard. He submits that until the grievance is redressed by the District Magistrate, Rohtas these persons would be deprived of their legal right to participate in the election by virtue of non inclusion of their names in the voter list even in future elections.

Mr. Amit Srivastava, learned counsel for the State Election Commission has also conceded to the submission of the petitioner regarding verification of the voter list in the light of the infirmities so pointed out in the representation in the larger public interest.

I have heard learned counsel for the parties and I have perused the materials on record.

This Court on consideration of the issues raised by the petitioner is of the opinion that requiring a filing of an affidavit by the State or the State Election Commission at this stage when the election has already taken place would serve no useful purpose but then the issue raised by the petitioner does invite attention and has to be addressed upon by the District Authorities for effective functioning of the democratic set up.

In the circumstances and in view of the specific directives of the State Election Commission as can be found in paragraphs 10 and 11 of the advisory dated 8.10.2013 placed at Annexure-1 creating an obligation on the District Magistrate or a person so authorized by him to dispose of objection, this Court while affording liberty to the petitioner to file a comprehensive representation by setting out the details of the irregularities before the District Magistrate, Rohtas would require its disposal by a speaking order after an opportunity of hearing to the petitioner which order be passed by the District Magistrate preferably within six months of receipt/production of a copy of this order.

The writ petition is disposed of.

(Jyoti Saran, J)

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