

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12569 of 2014

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Kawal Devi Wife of Ram Pratap Singh, resident of Village AND Panchayat- Inai, Police Station- Revilganj, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar, through Director Panchayati Raj, Government of Bihar, Patna.
 2. The Bihar State Election Commission through the Commissioner, Bihar State Election Commission, Patna.
 3. The Commissioner, Bihar State Election Commission, Patna.
 4. The District Magistrate cum District Election Officer, Saran at Chapra.
 5. The Returning Officer cum Block Development Officer, Revilganj, District- Saran.
 6. The Assistant Returning Officer cum Block Welfare Office, Revilganj, District- Saran.
 7. Kabita Kumari Wife of Late Neeaj Kumar Singh
 8. Amar Singh Son of Gariban Singh
 9. Ajay Singh Son of Jag Narayan Singh
 10. Jai Prakash Singh Son of Surya Nath Singh
 11. Vijay Bahadur Singh Son of Harendra Singh
 12. Mani Bhushan Yadav Son of Shiv Muni Rai
 13. Maya Devi Wife of Upendra Narayan Singh
 14. Ramesh Singh Son of Sri Bhagwan Singh
 15. Rama Shankar Singh Son of Madan Mohan Singh
 16. Reena Devi Wife of Jai Prakash Singh
 17. Shashi Bhushan Singh Son of Bishwanath Singh
- All 7 to 17 are Resident of Village AND Panchayat- Inai, Police Station- Revilganj, District- Saran.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate
Mr. Awadhesh Kumar Singh, Advocate

For the State : Ms. Archana Jha, A.C. to GA-13

For the State E.C. : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate

For the Respondent No. 7: Mr. Nagendra Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 04-11-2015 Heard Mr. Subodh Kumar Jha, learned counsel
appearing for the petitioner, learned counsel for the State, learned

counsel for the State Election Commission and Mr. Nagendra Rai for the returned candidate.

The petitioner is aggrieved by the judgment and order passed by the Election Tribunal, Saran in Election Case No. 2 of 2011 whereby the election petition filed by the petitioner praying for recounting of votes has been rejected.

I have heard learned counsel for the parties and I have perused the records. The sole issue raised by the petitioner before the Election Tribunal as well as before this Court is that at the time of counting, 30 votes which were declared invalid have been included in the vote count of the returned candidate. It is further the case of the petitioner that five ballots was taken out from the bundle of the petitioner and mixed in the bundle of the returned candidate and a further 20 ballot of the petitioner was discarded *inter alia* on grounds that it was not folded properly. It is further his complaint that 19 persons who were not valid voters, had voted. It is the case of the petitioner that these irregularities were pointed out by his election agent but was not entertained by the Returning Officer rather was thrown away.

Three things that prove fatal for the petitioner is that although such irregularities is being pointed out by the petitioner in his election petition but there is complete absence of any

descriptive details of the votes which have been reduced from his vote count. Another aspect which proves fatal for the petitioner is that even when he relies upon his polling agent Vijayendra Singh who is stated to have made a complaint before the Returning Officer but the said Vijayendra Singh was never led as a witness. The third issue which again proves fatal for the petitioner is that although a number of discrepancies are being complained of by the petitioner but while seeking his relief he does not make a prayer for inspection.

In the circumstances so discussed above, in my opinion, the opinion expressed by the Election Tribunal in not interfering with the election of the Mukhiya does not suffer from any infirmity warranting interference.

The writ petition is dismissed.

(Jyoti Saran, J)

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