

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18853 of 2013

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Mohan Singh, son of Late Amir Singh, Residence of Village Dumwalia Tola, Shri
Nagar, Narainapur, Ward No.8, Police Station Bagaha, District- West Champaran

.... Petitioner/s

1. Versus

1. The State of Bihar through the Principal Secretary, Nagar Vikash Bihar, Patna.
2. The State Election Commissioner, Sone Bhawan, 3rd Floor, Birchand Patel
Marge, Patna- 1.
3. The Principal Secretary Nagar, Vikas, Bihar, Patna.
4. The District Returning Officer-Cum-District Magistrate, Bettiah, West
Champaran.
5. The Sub-Divisional Returning Officer-Cum-Sub-Divisional Officer, Bagaha,
West Champaran.
6. The Block Development Officer, Bagaha-2, Police Station- Bagaha, District-
West Champaran.
7. Sri Bhola Yadav @ Bhola Nath Yadav, son of Lalan Yadav, Ward Member of
Ward No. 8, Residence of Narainpur, Ward No.8, Police Station Bagaha,
District- West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Abhitabh Kumar, Advocate
For the Respondent Nos.1 to 6 : Mr. P.N. Sahi, A.A.G.-14
Mr. Ravindra Kumar, Advocate
For the Respondent No.7 : Mr. Zainul Abedin, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-01-2015



The petitioner claims to be a social worker residing at Village Dumwalia Tola, Shri Nagar, Narainpur, Ward No.8, P.S. Bagaha, West Champaran District. He filed the writ petition in public interest with a prayer to direct the respondents 1 to 6 to cancel the membership of respondent no.7-Sri Bhola Yadav alias Bhola Nath Yadav, in relation to Ward No.8 of Bagaha Nagar Parishad. He submits that though Piprasi P.S. Case No.11 of 2005 with a charge under Section 307 of the Indian Penal Code was pending at the time he filed his nomination, the 7th respondent did not disclose it and thereby his election is vitiated as being violative of Section 18 of the Bihar Municipal Act, 2007 (for short, 'the Act') read with Rule 43 of the Bihar Municipal Election Rules, 2007 (for short, 'the Rules').

Heard Sri Abhitabh Kumar, learned counsel for the petitioner and Sri Zainul Abedin, learned counsel for the 7th respondent.

Section 18 of the Act stipulates the circumstances under which an individual can be disqualified either from contesting or continuing as member of the Municipality. Rule 43 of the Rules provides for presentation of nomination paper and requirement for a valid nomination. Assuming that the 7th respondent did not

furnish the requisite particulars at the time of filing of the nomination, that can, at the most, constitute a ground to challenging the election on the plea of wrong acceptance of the nomination, of course, if it is within limitation, etc. The Act and the Rules prescribe the procedure to be followed in this behalf. It is only after thorough verification during the trial, that the concerned Court or authority can pronounce its order. The petitioner cannot have the luxury of raking up the issue by way of public interest litigation.

We, therefore, dismiss the writ petition as not maintainable.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Gopal Prasad, J)

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