

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2477 of 2013

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Subhash Sahni son of Late Bhikhari Sahni, resident of village- Basbaria, P.S. Town,
Distt- West Champaran Bettiah

.... Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Election Authority through Chief Election Officer, Bairak No. 11, Old Secretariat, Patna- 15
3. The Registrar Co-Operative Societies, Bihar, Patna
4. The District Magistrate-cum-District Election Officer, West Champaran
5. The Block Development Officer-cum-Election Officer, Bettiah, District- West Champaran
6. The District Co-Operative Officer, West Champaran
7. Geeta Devi wife of Vidya Lal Mukhiya, resident of Village- Gidhaura, P.O.- Pipra Pakari, P.S.- Muffasil, Bettiah, Distt.- West Champaran
8. Shankar Prasad son of Hanuman Sah, resident of Village- Rani Gudari, P.O.- Bettiah, P.S.- Town Thana Bettiah, Distt.- West Champaran
9. Prahlad Mukhiya son of Shiv Nath Mukhiya resident of village and P.O.- Pipara Pakari, P.S.- Muffasil, Distt.- West Champaran
10. Jagarnath Mukhiya son of Dashai Mukhiya, resident of village and P.O.- Pipara Pakari, P.S.- Muffasil, Distt.- West Champaran
11. Pintu Mukhiya son of Hira Mukhiya, resident of village and P.O.- Pipara Pakari, P.S.- Muffasil, Distt.- West Champaran
12. Binda Mukhiya son of Late Jhagaru Mukhiya, resident of village and P.O.- Pipara Pakari, P.S.- Muffasil, Distt.- West Champaran
13. Dhruv Mukhiya Son of Ram Autar Mukhiya, resident of village and P.O.- Pipara Pakari, P.S.- Muffasil, Distt.- West Champaran
14. Deva Mukhiya son of Kumbha Mukhiya, resident of Village and P.O.- Pipara Pakari, P.S.- Muffasil, Distt.- West Champaran
15. Chandan Kumar Mukhiya son of Kanhaiya Mukhiya, resident of village and P.O.- Pipara Pakari, P.S.- Muffasil, Distt.- West Champaran
16. Baby Devi wife of Kailash Sah, resident of Village- Purani Gudari Bettiah, P.O.- Bettiah, P.S.- Nagar Bettiah, Distt.- West Champaran
17. Chhathu Sah son of Ledar Sah, resident of village- Purani Gudari Bettiah, P.O.- Bettiah, P.S.- Nagar Bettiah, Distt.- West Champaran
18. Raju Sah son of Sarbhu Sah resident of Village- Purani Gudari Bettiah, P.O.- Bettiah, P.S.- Nagar Bettiah, Distt.- West Champaran
19. Anand Kumar son of Baijnath Sah resident of Village- Purani Gudari Bettiah, P.O.- Bettiah, P.S.- Nagar Bettiah, Distt.- West Champaran

.... Respondent/s

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Appearance:

For the Petitioner/s : Mrs. MAHASWETA CHATTERJEE, Advocate
For the Respondent/s : Mr. PRABHAKAR TEKRIWAL, GA-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date: 17-09-2015

Heard Ms. Mahasweta Chatterjee, learned counsel appearing for the petitioner, Mr. Himanshu Kumar, Assisting Counsel to G.A.-1 for the State, Mr. Pashupati Prasad Sinha for the respondent nos. 7 and 8 and counsel for the State Election Authority.

The petitioner is aggrieved by the order dated 29.11.2012 / 30.11.2012 passed by the respondent no. 3 the Registrar, Cooperative Societies in Election Case No. 49 of 2012 (Subhash Sahni vs. State Election Authority) whereby the challenge of the petitioner to the election of the Managing Committee of the Bettiah Prakhanda Matasyajivi Sahkari Sahyog Samiti Limited has been rejected and consequently the election petition has been dismissed.

According to the petitioner whereas he as an *Adhoc* Chairman of the Society had forwarded a list of 523 valid members for inclusion in the voter list. The District Cooperative Officer added some names to make it 824 and the Block Development Officer who happens to be the District Election Officer for the Society has gone a step ahead to add a few more names to make it 839. According to Ms. Chatterjee this is illegal as neither the District Cooperative Officer nor the Block Development Officer had any jurisdiction to add names in the voter list. Raising such issue the petitioner came before this Court in CWJC No. 8484 of 2012 and vide order passed on 10.05.2012 since the

election had been announced hence the writ petition was dismissed affording liberty to the petitioner to challenge the election on the grounds so mentioned.

The petitioner contested the election for the post of Secretary of the Society and having been defeated he now turns back to question the election on infirmities in the voters list. Ms. Chatterjee advancing the case of the petitioner has submitted that the Block Development Officer has no jurisdiction to add names in the voter list and in support of her statement she relies upon a Bench decision of this Court reported in **2010(1) PLJR 650 (Uday Prakash Chaudhary vs. State of Bihar)**.

The argument of Ms. Chatterjee has been contested by Mr. Sinha, learned counsel for the State as well as Mr. Sinha to submit that the society in question was constituted after amalgamation of six societies existing within the Bettiah Prakhanda by virtue of the amendment made in the Bihar Cooperative Societies Act, 1935 (hereinafter referred to as 'the Act') under Section 11B of 'the Act'. According to Mr. Sinha the *Adhoc* Committee initially had forwarded 824 names but the petitioner who held the post of the Secretary of the *Adhoc* Committee chose to forward 524 names. The District Cooperative Officer considering the matter forwarded 824 names and the voter list was published by the Block Development Officer after

considering the objections. It is thus the contest of the respondents that there is no infirmity in the voter list warranting any interference.

I have heard learned counsel for the parties and I have perused the records. Admitted position is that the petitioner contested the election on the same voter list and has been defeated. Admitted position also is that although some kind of objection was raised by the petitioner, a copy of which is placed at Annexure-19 but the same does not point out any particular infirmity in the voter list rather a general protest has been made. In my opinion, if the petitioner sought to question the validity of a voter list he should have pointed out the irregularities in particular by pointing out the particular instances and not in a general manner for such a general objection can only be disposed of in a general manner.

Although Ms. Chatterjee endeavoured to question the jurisdiction of the Block Development Officer to alter the voter list but in my opinion in view of the statutory stipulations provided under Rule 21J of the Bihar Cooperative Societies Rules framed under 'the Act' vesting powers in the Election Officer to dispose of the objections, which would include the power to add or to delete the names therefrom, any addition so made by the Block Development Officer as an Election Officer unless any infirmity is shown in the exercise, cannot be faulted with. The judgment so relied upon by Ms.

Chatterjee rendered in the case of **Uday Prakash Chaudhary** (supra) is on entirely different issue and in that case the Block Development Officer had prepared the voter list himself without the same being forwarded by the Society as mandated under 'the Act' and the Rules framed thereunder. Such is not the case here. In fact whereas according to the petitioner he as a Secretary of the Society forwarded 523 names, it is the case of the private respondents that upon constitution of the amalgamated Society 824 names have been forwarded. There is thus a dispute on facts and considering that the Block Development Officer being the Election Officer for the Society has exercised his powers vested under Rule 21J and in absence of any such instances of apparent irregularities being brought to the fore, the said exercise cannot be questioned.

For the reasons aforementioned, I am not persuaded to interfere with the order impugned in the writ petition.

The writ petition is accordingly dismissed.

(Jyoti Saran, J)

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