

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18158 of 2014

- =====
1. Ashok Kumar Singh son of Dineshwar Singh, resident of Village - Mungia, P.S. - Tandwan, District - Aurangabad.
 2. Shiv Narayan Singh son of Late Padarath Singh, resident of Village - Bhandari, P.S.- Tandwan, District - Aurangabad.
 3. Ajay Mehta son of Late Mathura Mehta, resident of Village + P.S. - Tandwan, District - Aurangabad.
 4. Kapildeo Singh son of Late Kameshwar Singh, resident of Village - Pandu, P.S. - Tandwan, District - Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Bihar State Election Tribunal through its Chief Election Officer, Bihar State Electoral Tribunal.
3. The District Magistrate-cum-District Electoral Officer, Aurangabad.
4. The Nodal Officer, PACS Election 2014, Aurangabad.
5. The District Co-operative Officer-cum-District Deputy Electoral Officer, Aurangabad.
6. Electoral Officer-cum-Block Development Officer, Nabi Nagar, District - Aurangabad.

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Siya Ram Shahi, Advocate
Mr. Santosh Kumar Pandey, Advocate

For the Respondent/s : Mr. Md. Raisul Haque, S.C.-4
Mr. Iqbal Asif Niazi, AC to S.C.-4

For Election Commission : Mr. Mukesh Kumar Thakur, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

8 22-01-2015 Mr. Siya Ram Shahi for the petitioner, learned counsel
for the State and Mr. Mukesh Kumar Thakur for the State Election
Authority are present.

The four petitioners herein had filed their respective
nomination for being elected to the post of Chairman in four
different Primary Agriculture Credit Co-operative Societies.



Being aggrieved by a stipulation present in a circular of the State Election Authority bearing Letter No. 1322 dated 22.9.2014 present at Annexure-1 in which at Item No.-1, a decision had been taken to postpone the election in such of the societies where the nominations filed did not fulfill the quorum required under the Act, that the writ petition was filed.

The argument of Mr. Shahi has been taken note of by this Court in the order dated 18.11.2014 and it is with reference to the provisions underlying Rule 21P of the Bihar Co-operative Societies Rule, 1959 that Mr. Shahi contended that since these petitioners were nominees for the post of Chairman in different societies, hence in view of the statutory stipulations so present, their election result should have been declared.

Enabling the State Election Authority to file their response that the matter was adjourned and has been taken up today and when counter affidavit as well as supplementary counter affidavit have been filed on behalf of the State Election Authority and with reference to the provisions underlying Section 41(5) of the Bihar Cooperative Societies Act which provides for dissolution of a managing committee where half of the total numbers of seats are not filled up as well as relying upon Rule 22(2) of the Bihar Co-operative Societies Rules, 1959 that it was



submitted that if the election would have taken place then the petitioners would have a right of consideration of their prayer but since the decision was taken by the State Election Authority even prior to the date of election rather at the stage of nomination itself that no right has vested in these petitioners to seek a declaration of their result even prior to the election. He thus submits that in the circumstances where the total number of nominations received in a society did not constitute a quorum that a decision was taken to postpone the election and since after the postponement process to hold fresh election has already been initiated and circulated vide letter no. 2767 dated 19.12.2014 to all connected with the election by the State Election Authority, hence nothing survives in the application.

Mr. Shahi without contesting the arguments, submits that since the nomination of the petitioners has not been faulted with hence these petitioners should not be required to file any fresh nomination for contesting the election and their earlier nomination should be held valid for the coming election. The submission of Mr. Shahi is just and proper and since it is only in circumstance where the quorum was not complete that the election has been postponed hence I hold that all such nominations which had been filed by the nominees at the earlier stage and which did

not suffer from any infirmity, such of the nominees would not be required to file any fresh nomination and their earlier nomination should be accepted as valid to contest the ensuing election.

With the observations and directions aforementioned, the writ petition is disposed of.

(Jyoti Saran, J)

S.Sb/-

U			
---	--	--	--