

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8154 of 2014

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Rajiv Kumar Singh S/o Late Chandra Prasad Singh @ Chandra Mahaldar
resident of village - Basuhar Majadia, P.O. M.T. Devipur, P.S. Kursaila,
District - Katihar

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Registrar Cooperative Societies, Bihar, Patna
 3. The Joint Registrar, Co - Operative Societies, Purnea Division, Purnea
 4. The Block Development Officer - cum - Election Officer, Kursaila
Prakhand Matsyajivi Sahyog Samiti Ltd. P.O. and P.S. Kursaila, District
- Katihar
 5. The Bihar State Election Authority through its Secretary Hardinge
Road, Patna
 6. The Chief Election Officer, Bihar State Election Authority, Hardinge
Road, Patna
 7. Kursaila Prakhand Matsyajivi Sahyog Samiti Ltd. through its
Administrator, P.S. Kursaila, District - Katihar
 8. Gopi Mahaldar S/o Late Fakir Mahaldar
 9. Guddu Kumar Singh S/o Shankar Singh
 10. Smt. Sunita Devi W/O Arun Singh Respondent No. 8 to 10 are
Resident of Village and P.O. Katria, P.S. Kursaila, District - Katihar
 11. Shankar Mahaldar S/o Late Mohan Mahaldar R/o of Village - Madheli,
P.O. Jalrahi, P.S. Kursaila, District - Katihar
 12. Ranjit Singh S/o Jaichand Singh
 13. Shukraj Singh S/O Late Doman Singh
 14. Gaurav Kumar S/o Dinesh Singh Respondent No. 12 to 14 are
Resident of Village and P.O. Katria, P.S. Kursaila, District - Katihar
 15. Toofani Mahaldar S/O Duluchu Mahaldar
 16. Pankaj Mahaidar S/o Budhan Mahaldar Respondent No. 15 to 16 are
Resident of Village - Balathi Mahehpur, P.S. Kursaila, District - Katihar
 17. Raj Kumar Mahto S/o Kishan Mahto resident of village - Gandhi
Gram, P.O. A.G. Bazar, P.S. Kursaila, District - Katihar
 18. Raju Nishad S/o Late Lalu Nishad resident of village - Kursaila Basti,
P.S. Kursaila, District - Katihar
 19. Ashok Kumar Singh S/o Bhudev Mahaldar
 20. Akhilesh Mahaldar S/o Sattan Mahaldar
 21. Binod Mahaldar S/o Late Nevi Mahaldar
 22. Santosh Mahaldar S/o Umesh Mahaldar
- Respondent No. 19 to 22 are Resident of Village - Majadia, P.O. M.T.
Devipur, P.S. Kursaila, District - Katihar

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Mukesh Kumar, Advocate
For the Respondent/s : Mr. Raj Nandan Prasad, SC-9

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

for the petitioner and learned counsel for the State. Though served the private respondents have not chosen to appear.

The petitioner is aggrieved by the order dated 21.3.2013 passed by the Joint Registrar, Co-operative Societies, Purnea Division, Purnea in Election Dispute No. 1 of 2012 whereby the entire election to the Kursaila Prakhand Matasyajivi Sahyog Samiti Limited has been set aside *inter alia* on grounds of infracted voter list. Even the appeal so preferred by the petitioner has been dismissed by the Registrar in Election Appeal No. 47 of 2013 on grounds of maintainability.

I have heard learned counsel for the parties and I have perused the records. The only ground on which the election to the managing committee of the society has been set aside is, the allegedly infracted voter list. It is by virtue of the infirmities in the voter list which according to the prescribed authority included name of members who were ineligible that the entire election to constitute the Managing Committee of the Society has been set aside. The order is apparently illegal and cannot be upheld for an infracted voter list on its own cannot be a foundation to set aside the election as held by the Supreme Court in **AIR 1977 SC 1992 (Chandan Kumar Singh vs. State)**. The view so expressed by the Supreme Court stands reiterated even thereafter in subsequent judgments reported in **(2000) 8 SCC 46 (Shyamdeo Pd. Singh vs.**

Nawal Kishore Yadav) and which view has also been affirmed in **(2010) 4 SCC 81 (Laxmi Kant Bajpai vs. Haji Yaqoob)** when it has been the view of the Supreme Court that unless the election petitioner is able to demonstrate that the persons so ineligible have contributed to the success of the returned candidate, it cannot be a ground for setting aside the election.

In the present case the election petitioner does not dispute the election of any office bearer in particular rather he has questioned the constitution of the Committee as a whole in the election petition. In view of the stipulations so present in Section 10 and 12 of the Bihar State Election Authority Act, 2008, in my opinion, the election petition itself was not maintainable for it was not directed against any returned candidate. Thus neither on merits nor on the maintainability the election petition was worthy of indulgence and the Joint Registrar has perpetuated the illegality in allowing the prayer.

For the reasons aforementioned, the order dated 21.3.2013 passed by the Joint Registrar in Election Dispute No. 1 of 2012 is held unsustainable and is accordingly set aside. The writ petition is allowed. The Managing Committee stands restored.

(Jyoti Saran, J)

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