

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13933 of 2012

=====

Sephali Bala Mandal, W/O Shri Subol Chandra Mandal, R/O Village-
Ganesh Tola, P.S. - Ahmadabad, District-Katihar.

.... Petitioner/s

Versus

1. State Election Commission, Bihar, Patna through the Secretary.
2. The District Magistrate cum Returning Officer, Katihar.
3. The Block Development Officer cum Assistant Returning Officer,
Amdabad, Katihar.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Shankar Das
For the Respondent-State : Mr. Jaishankar Barnwal, SC-1
For the Respondent-SEC : Mr. Sanjeev Nikesh

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 15-09-2015

Heard Mr. Ram Shankar Das, learned counsel
appearing for the petitioner, learned counsel for the State and
Mr. Sanjeev Nikesh, learned counsel appearing for the State
Election Commission.

The petitioner is aggrieved by the order dated
6.8.2011 passed by the District Magistrate, Katihar, whereby the
claim of the petitioner has been disposed of with liberty to the
petitioner to take recourse to such remedy that may be available
to her in law.

Facts of the case briefly stated is that the nomination
of the petitioner for contesting the election to the post of
Mukhiya, Gram Panchayat, Durgapur in the district of Katihar
was rejected by the Returning Officer, inter alia, on grounds of



invalid caste-certificate. The petitioner approached this Court in CWJC No.6122 of 2011 and the writ petition was disposed of with a direction to the District Magistrate, Katihar to hold a preliminary enquiry and pass appropriate orders if it finds that the Scheduled Tribe status claimed by the petitioner finds mention in the Presidential notification and the caste-certificate so issued in her favour has not been cancelled and despite these facts the nomination has been rejected. The petitioner in the same order was also granted liberty that if the finding of the District Magistrate is drawn in her favour, she shall take recourse to the remedy against the Officer rejecting her nomination. The claim of the petitioner was examined by the District Magistrate in Case No.01 of 2011 and the opinion of the District Magistrate is impugned with the writ petition.

Perusal of the order passed by the District Magistrate manifests that the caste-certificate of the petitioner has been rejected by the Block Development Officer, Amdabad vide letter no.34 dated 15.1.2011 and the intimation whereof has also been given to the petitioner in addition to its display on the notice board. The District Magistrate upon consideration of the matter in the backdrop of the fact that the caste-certificate of the petitioner stood cancelled on 15.1.2011 found no infirmity in the



action of the Returning Officer in rejecting the nomination of the petitioner but even while opining as such and finding that the order of cancellation of caste-certificate has been passed by the Block Development Officer without notice and without providing any opportunity of hearing to the petitioner, the case was disposed of with liberty to the petitioner to avail of such remedy that may be available to her to question such rejection.

In my opinion, in view of the liberty granted by the District Magistrate to the petitioner for questioning the order of cancellation of her caste certificate, no interference is called for and the writ petition is disposed of leaving it open for the petitioner to exhaust the liberty so granted to her under the orders of the District Magistrate.

(Jyoti Saran, J)

SKPathak/-

U			
---	--	--	--