

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16091 of 2013

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Rajnish Kumar S/O Sri Rameshwar Prasad Singh Resident Of Village And
P.O. - Chauki, P.S. Sahebpur Kamal, District – Begusarai Petitioner
Versus

1. The State Of Bihar Through The Principal Secretary Panchayati Raj
Department, Government Of Bihar, Patna
 2. The District Magistrate Cum District Election Officer, Begusarai
 3. The State Election Commission, Through Its Secretary, Sone Bhawan,
Birchand Patel Path, Patna - 1
 4. The State Election Commissioner, Sone Bhawan, Birchand Patel Path,
Patna - 1
 5. The Joint Election Commissioner, Sone Bhawan, Birchand Patel Path,
Patna - 1
 6. The Block Development Officer, Sahebpur Kamal, District - Begusarai
 7. Amesh Kumar S/O Srilal Mahto Resident Of Village And P.O. -
Chauki, P.S. Sahebpur Kamal, District - Begusarai Respondents
- =====

Appearance :

For the Petitioner : Mr. Siya Ram Sahi & Sunil Kr.Sharma, Advocate

For the State : Mr.R.K.Raman. AC to GP 31

For respondent no. 3 to 5: Mr.A.Srivastava and G.Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 29-07-2015 The petitioner prays for setting aside order dated

23.7.2007, passed in Case no. 115/2011 by which the State

Election Commissioner, Bihar has held him guilty under section

125(A)(1)(ii) of the Bihar Panchayat Act for making cutting/

over writing without putting signature over the

declaration/affidavit filed by him along with nomination for the

Mukhia, of Chauki Gram Panchayat, Sahebpur Kamal Block in

the district of Begusarai.

The petitioner was declared elected as Mukhia of the
aforesaid Panchayat by defeating respondent no.7 who has filed

the instant representation/complaint before the Election Commission against him. He submits that the respondent no.7 earlier had filed election case making similar allegations with respect to suppression of facts. The learned Munsif cum Election Tribunal on consideration of materials held that respondent no. 7 has not been able to establish the said allegations against the petitioner. Virtually, on the same allegations, respondent no.7 has subsequently filed a complaint. The State Election Commission on the report of the District Magistrate held the petitioner as having committed breach of provisions of section 125(A)(1)(ii) of the Bihar Panchayat Act.

In my view, once the same matter has been adjudicated by the Election Tribunal in favour of petitioner then again holding him guilty for committing breach of section 125(A)(1)(ii) of the Bihar Panchayat Act, is not sustainable in law and it is accordingly quashed.

The writ petition is thus allowed.

(Samarendra Pratap Singh, J)

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