

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4559 of 2015

=====

1. Ranjan Kumar Mohan Son of Late Shyam Sundar Singh resident of village Mahsura, P.s. Ramgarh Chowk, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Cooperative Department, Government of Bihar, Patna.
2. The Bihar State Election Authority, 32, Harding Road, Patna, through its Secretary.
3. Chief Election Officer, Bihar State Election Authority, 32, Harding Road, Patna.
4. The District Magistrate-cum-District Election Officer (Co-operative Societies), Lakhisarai.
5. The Joint Registrar Cooperative Societies, Bhagalpur Division, Bhagalpur.
6. The District Cooperative Officer-cum-Deputy District Election Officer (Cooperative Societies) Lakhisarai.
7. The Block Development officer-cum-Election Officer (Cooperative Societies), Ramgarh Chowk, District - Lakhisarai.
8. The Circle Officer , Ramgarh Chowk, District - Lakhisarai.
9. Smt. Alka Sharma wife of Pankaj Kumar resident of village- Mahsura, P.s.- Ramgarh Chowk, District- Lakhisarai.
10. Sri Sunil Kumar Singh Son of Late Shyamali Singh
11. Sri Bumbum Singh son of Late Manik Singh
12. Sri Purshottam Kumar Son of Sri Yogendra singh
13. Smt. Sushila Devi Wife of Sri Phultan Singh
14. Smt. Jaimanti Wife of Sri Surendra Singh
15. Sri Budhu Ram Son of Bachu Ram
16. Smt. Savitri Devi Wife of Sri Ramdas Paswan.
17. Sri Shivdani Ravidas Son of Sri Goga Ravidas. All resident of Village Mahsura P.S. - Ramgarh chowk, District - lakhisarai.
18. Sri Shashi Bhushan Yadav Son of Late Gaya Yadav
19. Smt. Bebi Devi wife of Sri Yogendra Thakur.
20. Smt. Lalita Devi wife of Sri Yogendra Thakur. All resident of Village Phulaiya , P.S. Ramgarh Chowk, District - Lakhisarai.
21. Bhawariya Primary Agriculture Credit Cooperative Society Ltd, at Bhawariya, P.S. Ramgarh Chowk, District - Lakhisarai

Respondents 3rd

.... Respondent 4th set

=====

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Jha, Adv.

For the Respondent/s : Mr. Ajit Pratap Singh, S.C. 15

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 24-09-2015

Heard Mr. Rakesh Kumar Jha, learned counsel for the petitioner, learned
counsel for the State and Mr. Sanjay Kumar learned counsel for the State Election

Authority.

Though served the other respondents have not chosen to appear.

The petitioner is aggrieved by the order dated 17.1.2015/21.1.2015 of the Joint Registrar, Cooperative Societies, Bhagalpur Division in Election Dispute No.14 of 2014 whereby the election has been set aside inter alia on grounds that the Returning Officer/Election Officer has indulged in corrupt practices and has not abided by the rule governed in preparation of the result-sheet. In the nature of the order which this Court proposes to pass it would not require to delve into the intricacies of the matter. The petitioner had succeeded in election which was questioned by the respondent No.9 in the election case inter alia on grounds that the result sheets have been tempered and while maintaining the said case twin prayer was made by the petitioner namely:

- (a) For setting aside the election of the writ petitioner; and
- (b) For declaration of the election petitioner as the returned candidate.

The prescribed authority in complete disregard of the prayer made in the election dispute has declared the entire election itself void and asked for a fresh election. This was not even the prayer made by the writ petitioner. Records manifests that there are irregularities in the preparation the result sheet by the Election Officer. The records also manifests that whereas there is a specific instructions of the State Election Authority as to the manner in which the resultsheet is to be prepared after counting is done and the procedure to be followed in case it requires alteration in the prescribed format in $\overline{\text{पृ०- १}}$ (1), $\overline{\text{१}}$ (2), $\overline{\text{१}}$ (3) and $\overline{\text{१}}$. Admittedly this procedure has not been followed. The Returning Officer in fact has admitted in the letter addressed to the prescribed authority that upon verification of the bundles 11 votes which were counted in the bundle of the election petitioner were found invalid and thus were shifted to the

bundle of invalid votes. It is further accepted that two votes were found invalid in the bundle of invalid votes which was included in the vote count of the election petitioner. These facts though found present in the letter of the Returning Officer present at Annexure-6 does not reflect in the counting sheet. Apparently there are irregularities in the preparation of the result sheet.

It is also the grievance of the petitioner that the alteration has taken place behind her back.

The grievance raised by the election petitioner may be correct or may not be correct but in the circumstances reflecting from the admitted documents on record as well as taking into consideration that a specific prayer was made by the election petitioner requesting the prescribed authority for inspection and recount, it was a duty cast upon the prescribed authority to call for the ballots, inspect the same and pronounce accordingly. He has apparently abdicated this responsibility despite the facts reflecting that the case in question needed a recount.

In the circumstances discussed and considering that the order of the prescribed authority grants such relief to the petitioner which was not even prayed for in the election case, the order impugned herein cannot be upheld and is accordingly set aside. The matter is remitted back to the Prescribed Authority for its reconsideration afresh and its disposal in accordance with law bearing the stipulations made hereinabove and considering that it arises of an election dispute the parties would appear before the prescribed authority along with a copy of the order on/or before 5.10.2015 whereafter he shall proceed to dispose of the matter in accordance with law.

The writ petition is allowed with the direction aforementioned.

Bibhash/-

U			
---	--	--	--

(Jyoti Saran, J)