

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15364 of 2014

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Krishna Bihari Singh son of Late Chandrika Singh, resident of Village-
Judge Ke Versara, Post Office-Varsara Police Station Bahera, District-
Bhojpur.

.... Petitioner/s

Versus

1. The Bihar Election Commission Gram Panchayat Sone Bhawan, IIIrd Floor, through its Secretary, Birchand Patel Path, Patna
2. The D.M. Bhojpur cum District Election Officer, Gram Panchayat at and PO. Arrah, Collectariat, District- Bhojpur
3. The Returning Officer of Behea Block Panchayat Election Bahea Block, Bhojpur
4. A.R.O. Birendra Vikram Block Agriculture Officer, Behea, Block, Bhojpur.
5. Chotan Singh son of Late Tarkeshwar Singh, resident of Village- Bharsara, P.O. Bharsara, P.S Bharsara, PS.- Behea, District- Bhojpur.
6. Dhanjay Singh son of Late Shatrudhan Singh, resident of Village- Bharsara, P.O. Bharsara, Police Station.- Behea, District- Bhojpur.
7. Dharmdeo Singh son of late Haridwar Singh, resident of Village- Bela Manhauili, P.O. Bharsara, P.S. Behea, District- Bhojpur.
8. Narad Muni Singh son of Late Sheoveyas Singh, resident of Village- Phulayu, P.O. Mahuwaon, P.S. Behea, District- Bhopur.
9. Lakhraj Singh son of Late Jageshwar Singh, resident of Village Bharsara, P.O.- Bharsara, P.S.- Behea, District- Bhojpur.
10. Lall Babu Singh son of Late Bhola Singh, resident of Village- Bariwaveer, P.O. Bharsara, P.S. Behea, District- Bhojpur.
11. Shailesh Kumar Choubey son of Late Lachuman Chaudhary, resident of Village- Manjhauili, P.O. Bharsara, P.S. Behea, District- Bhojpur.
12. Shailesh Kumar Choubey son of Late Ayodhya Choubey, resident of Village- Manjhauili, P.O. Bharsara, P.S. Behea, District- Bhojpur.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Mukul Prasad, Advocate

For the Respondent/s : Mr. Dinbandhu Singh, G.P.-9

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 30-11-2015 Heard Mr. Shri Prakash Shrivastava, learned counsel for

the petitioner, learned counsel for the State and Mr. Girish Pandey

for the State Election Commission.



The petitioner questions the judgment and order passed by the Election Tribunal-cum-Munsif-3rd Bhojpur at Arrah passed in Election Petition No. 1 of 2011 dated 18.7.2014 whereby the election petition has been dismissed and the election of the private respondent no. 5 has been upheld.

Mr. Shrivastava, learned counsel appearing for the petitioner with reference to the finding of the court below present at paragraph-13 submits that the Election Tribunal even while adjudicating on the issue of irregularities in the counting process has simply rejected the pleading *inter alia* on ground that in absence of examination of the Returning Officer or the Presiding Officer, a mere irregularity would not be sufficient to upset the election. Even while Mr. Shrivastava very sanguinely espouses the cause spelt out in the election petition, he could not justify the failure on the part of the election petitioner to pray for inspection and recount of the votes before the Election Tribunal.

Under the orders of this Court the election petition has been placed on record vide Annexure-2 to the supplementary affidavit and the prayer made therein proves fatal for the petitioner for except for seeking a declaration upsetting the election of the respondent no. 5, neither the election petitioner has made any prayer for inspection of the votes nor any prayer has been made

for recount of the votes so cast. In absence of any such prayer made by the election petitioner, even if Mr. Shrivastava would be able to draw support for the petitioner but in absence of any prayer made in the Election Petition for inspection and recount, such arguments in absence of appropriate relief proves fatal for indulgence in the present proceedings or for interference with the judgment and order impugned.

The writ petition is disposed of.

(Jyoti Saran, J)

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