

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2289 of 2015

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Rambabu Prasad Yadav, son of Kamaldeo Prasad Yadav, resident of
Village+ P.O. + Block- Tetariya, P.S. Rajepur, District- East Champaran.
..... Petitioner/s

Versus

1. The State of Bihar.
2. The Registrar, Cooperative Societies, Bihar, Patna.
3. The District Magistrate, East Champaran at Motihari.
4. The Election Officer –cum- Block Development Officer, Tetariya, East Champaran.
5. Kundan Kumar, son of late Kripa Narain Prasad.
6. Umesh Kumar, son of Hardeo Sah.
7. Madan Prasad, son of Satya Narain Bhagat.
8. Abhijit Kumar, son of Indrajeet Rai.
9. Ajit Kumar, son of Madan Prasad.

Respondent nos.5 to 9 are residents of Village + P.O. + Block-
Tetariya, P.S.- Rajepur, District- East Champaran.

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Indradeo Prasad
Mr. Sanjay Kumar

For the Respondent/s : Mr. K.K. Jha, AAG-14

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 09-09-2015 Heard Mr. Indradeo Prasad, learned counsel

appearing on behalf of the petitioner and learned counsel for

the State.

The petitioner has questioned the order dated
6.1.2015/13.01.2015 passed by the Registrar, Cooperative
Societies in Election Dispute Case No.474 of 2014, whereby
the election case preferred by the petitioner has been
dismissed.

The petitioner has contested the election and has
been defeated at the hands of the respondent no.5 to the post of



Chairman, Tetariya Primary Agriculture Credit Cooperative Society in the district of East Champaran (hereinafter referred to as 'the Society'). The election was held in terms of the provisions of the Bihar Cooperative Societies Act, 1935 and the rules framed thereunder and the provisions of the Bihar State Election Authority Act, 2008. According to the petitioner, the voter list was infracted as it contained the names of minors, dead persons and persons who were living outside. The prescribed authority considering the issue has rejected the contentions of the petitioner in absence of evidence so produced by the petitioner and relying upon a judgment of the Supreme Court reported in **AIR 1977 SC 1992: (1977) 4 SCC 153 (Kunwar Nripendra Bahadur Singh Vs. Jai Ram Verma)**.

I have heard Mr. Prasad, learned counsel appearing for the petitioner, counsel for the State and perused the records.

Mr. Prasad, learned counsel appearing for the petitioner has submitted that given an opportunity, he would have led evidence as regarding the 12 voters who were minors on the date of voting and whose names finds mention in the election petition. However even while making such submission Mr. Prasad fairly admits that no evidence at that stage had been



led by the petitioner rather it is submitted that had the matter been put to trial that he would have led the evidence required. He further submits that an objection in this regard had also been filed before the Election Officer for making corrections in the voter-list, a copy of which was also enclosed as Annexure-2 to the election petition present at Annexure-1 but which was not disposed of. The objection relied upon by learned counsel simply mentions the names of 9 persons whom he claims to be minors but there is no evidence to support the contention. Apart therefrom the petitioner has also charged others of being non-residents but which is again without any evidence.

Mr. Prasad has relied upon a decision of the Supreme Court rendered in the case of **Virendra Nath Gautam vs. Satpal Singh**) reported in (2007) 3 SCC 617 to submit that the Supreme Court in similar circumstances has remitted the matter for fresh consideration, but in my opinion the judgment relied upon was in different circumstances where there were evidence on record to support the plea advanced by the petitioner regarding irregularity and it was in such consideration of the matter that the Supreme Court remitted the matter for consideration. In the present case the fact is otherwise and it is a matter of record that not only before the

election officer rather even before the prescribed authority as well as before this Court, the petitioner has not been able to support his contention regarding irregularities in the voter list with supportive evidence.

The election petition placed at Annexure-1 further reflects that even though the petitioner had sought relief on the basis of the irregularity of the voter list but he neither made any prayer for inspection nor for recount of the votes.

Considering the matter in totality in the backdrop of the judgment of the Supreme Court in **Nripendra Bahadur Singh** (supra) which view stands affirmed by the Supreme Court in the judgment reported in (2000) 8 SCC 46 (**Shyamdeo Prasad Singh vs. Nawal Kishore Yadav**) and again in the judgment reported in (2010) 4 SCC 81 (**Laxmi Kant Bajpai vs. Hajiyaqoob**) I find no infirmity in the opinion expressed by the prescribed authority warranting interference

The writ petition is disposed of.

(Jyoti Saran, J)

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