

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1148 of 2015**

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Rajvanti Devi wife of Mahesh Prasad, resident of village- Gorbigha, P.S. Asthawa, District -Nalanda.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The Collector-cum-District Magistrate, Nalanda.
3. The District Education Officer Nalanda.
4. The District Program Officer, Nalanda
5. The Block Development Officer, Astahawa
6. The Head Master, Middle School Gorbigha, Asthawa Block, Nalanda

.... .... Respondent/s

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with

**Civil Writ Jurisdiction Case No.6588 of 2015**

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Jaya Devi, wife of Sri Puneshwar Ram, resident of village-Gorbigha, P.O.- Ramjanpur, P.S.- Asthawa, District- Nalanda.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The District Magistrate, Nalanda.
4. The District Programme Officer, Primary Education, and Sarva Shiksha Abhiyan, Nalanda.
5. The Block Education Officer, Asthawan, Nalanda.
6. The Secretary, School Education Committee, Middle School Gorbigha, Asthawan, Nalanda.
7. The Head Master, Middle School Gorbigha, Asthawan, Nalanda.

.... .... Respondent/s

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**Appearance:**

(In CWJC No.1148 of 2015)

For the Petitioner/s : Mr. Gopal Govind Mishra, Advocate  
Mr. Arjun Prasad, Advocate

For the Respondent/s : Mr. Arvind Kumar No. 2, SC-17

For Bihar Education Project: Mr. Girijesh Kumar, Advocate  
(In CWJC No.6588 of 2015)

For the Petitioner/s : Mr. Shekhar Singh, Advocate  
Mr. Satyendra Rai, Advocate

For the Respondent/s : Mr. Mithilesh Kumar Pathak, SC-7  
Mr. A.K. Prasad, A.C. to SC-7

For Bihar Education Project: Mr. Girijesh Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**ORAL ORDER**

6      22-06-2015      Mr. Gopal Govind Mishra in CWJC No.1148 of 2015 and Mr. Shekhar Singh in CWJC No. 6588 of 2015, have appeared for the petitioners in the two writ petitions while the State is represented by the respective State counsel.

For the sake of convenience, I shall be referring to the pleadings and the Annexures as occurring in CWJC No. 1148 of 2015 unless clarified with specific reference to the other writ petition.

Whereas the petitioner in CWJC No. 1148 of 2015 has complained of interference by the District Programme Officer in the functioning of the School Education Committee constituted following the election held on 10.07.2014, it is the complaint of Mr. Shekhar Singh appearing for the petitioner in CWJC No. 6588 of 2015 that the School Education Committee so constituted itself is illegal and is not in consonance with the statutory rules.

Fact of the case briefly stated is that an election was held on 10.7.2014 to elect the members to the School Education Committee for the Middle School, Gorbigha, Block-Asthawan in the district of Nalanda in which the petitioner was elected as Secretary. The result of the election is placed at Annexure-4 to the writ petition. An objection was filed by the In-Charge, Headmaster of the school contesting the election so held and a copy of which is



placed at Annexure-2 to CWJC No. 6588 of 2015. The In-Charge, Headmaster has invited the attention of the District Co-ordinator regarding the irregularities in the elections as well as in the elected body. It is following such complaint that the District Programme Officer issued directions to the Block Development Officer for re-constitution of a committee on 25.8.2014, a copy of which is placed at Annexure-4 to CWJC No. 6588 of 2015 but soon thereafter the District Programme Officer issued another letter on 13.12.2014 placed at Annexure-9 to CWJC No. 1148 of 2015 whereby he stayed his earlier directives contained in the letter dated 25.8.2014. For the reasons best known to the District Programme Officer, he again vide letter dated 23.12.2014 as contained in Annexure-11 stayed his letter dated 03.12.2014 and it is in these circumstances that the elected Secretary approached this Court in CWJC No. 1148 of 2015. Soon thereafter, the other writ petitioner approached questioning the constitution of the Committee.

The two matters were heard by this Court last on 08.5.2015 when it was informed that the grievance of the elected Secretary stood redressed. Counsel for the parties also invited the attention of the Court towards the Bihar State Right to Free and Compulsory Education to Children (Amendment) Rules, 2013



(hereinafter referred to as 'the Rules'), a copy of which is placed at Annexure-12 to the writ petition which provided for an appeal against the constitution of Committee which lay before the District Programme Officer under Rule 6 thereof. The matter has thereafter been taken up for consideration today when learned counsel for the State with reference to the counter affidavit filed on behalf of the District Programme Officer, Nalanda submits that the District Programme Officer after holding an enquiry has upheld the constitution of the Committee vide letter dated 15.4.2015, a copy of which is placed at Annexure-B to the counter affidavit whereby directives have been issued to the Block Education Officer, Asthawan to open a bank account in the name of the elected body.

Although it is the grievance of Mr. Mishra appearing for the elected Secretary that the said directive of the District Programme Officer has remained paper transaction inasmuch as the Committee has not been allowed to function independently but then there is nothing on record to confirm this position nor there is any rejoinder to the counter affidavit of the District Programme Officer.

In the circumstances discussed and in view of the letter dated 15.4.2015 issued by the District Programme Officer



upholding the election of the School Committee held on 10.7.2014, the grievance of the writ petitioner in CWJC No. 1148 of 2015 stands redressed and the writ petition has become infructuous. Since directions have already been issued by the District Programme Officer to the District Education Officer to take steps for opening of bank account etc for effective working of the Committee, he would be well advised to follow up the same for ensuring compliance thereof.

Insofar as the challenge to the elected committee is concerned, which has been raised through the second writ petition i.e. CWJC No. 6588 of 2015, in my opinion, in view of the statutory provisions underlying rule 6 of 'the Rules', the remedy of the writ petitioner would not lie by way of a writ petition rather the correct forum would be by way of an appeal which lies before the District Programme Officer and the second writ petitioner would be well advised to exhaust the remedy so available to him to question the elected committee.

It goes without saying that any such election dispute raised by the petitioner in CWJC No. 6588 of 2015 should be considered and disposed of expeditiously and preferably within three months by the District Programme Officer after giving an opportunity of hearing to all contesting parties.



Mr. Gopal Govind Mishra, learned counsel for the elected Secretary raising objection to the liberty so granted submits that in the meantime, the period of limitation has expired but in my opinion since the objection to the constitution of the Committee was raised right since after the election and which has translated presently in the writ petition, it goes without saying that if the petitioner in CWJC No. 6588 of 2015 raises any such dispute within a fortnight from today alongwith a petition for condonation of delay explaining the circumstances, the same shall be considered and disposed of on its own merit in accordance with law and after hearing the contesting parties.

With the observations aforementioned the writ petitions are disposed of.

It is made clear that this Court has not expressed any opinion on the merits of the constitution of the School Education Committee.

**(Jyoti Saran, J)**

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