

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14107 of 2015

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1. Mohan Prasad, Son of Late Kewat Mahto, Resident of Kazipur, P.S.- Kadamkuan, District- Patna.
 2. Sanjay Kumar Kabra, Son of Late G.P. Kabra, Resident of Dariyapur Gola, P.S.- Kadamkuan, District- Patna.
 3. Rakesh Kumar, Son of Sitaram Prasad, Resident of Langartoli, P.S. Kadamkuan, District- Patna.
 4. Naresh Kumar, Son of Ayodhaya Mahto, Resident of Kazipur, P.S.- Kadamkuan, District- Patna.
 5. Nandani Rani, Daughter of Triloki Nath Mehta, Resident of Langartoli, P.S. Kadamkuan, District- Patna.

.... Petitioners

Versus

1. The State of Bihar through Chief Electoral Officer, Bihar, Patna.
2. The Bihar State Election Commission through Chief Electoral Officer, Bihar, Patna.
3. The Zila Nirvachan Padhakari-Sah-Zila Padhikari, Patna.
4. The Nirwachan Nambandhan Padhakari, 182 Bankipore Vidhan Sabha, Nirwachan Chetra-Sah-Bhumi Up-Sudhar Samartha, Patna Sadar, Patna.
5. The Nirwachan Nambandhan Padhakari, 183 Kumhrar Bankipore Vidhan Sabha, Nirwachan Chetra-Sah-Vishisht Anubhajan Padhakari, Patna Sadar, Patna.
6. The Patna Nagar Nigam through its Nagar Ayukta, Patna.
7. The Election Commission of India, New Delhi.

.... Respondents

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Appearance :

For the Petitioners

: Mr. S.K. Lal, Adv.
Mr. P.K. Lal, Adv.

For the Respondent No.1 : M/s. Namrata Mishra, G.A.-13
For the Respondent Nos.2 & 7 : Mr. J.P. Karn, Sr. Adv.
Mr. Sidharth Prasad, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

Date: 29-09-2015

In the present application, filed in the nature of Public Interest Litigation, under Article 226 of the Constitution of India, five persons, who are residents of Kadamkuan, Patna, have sought for the following reliefs:-

"(a.) An appropriate writ (s), direction (s), order (s) quashing the registration of the persons who are ordinarily resident of 183 Kumhrar Assembly Constituency in the electoral roll for 182 Bankipore Assembly Constituency at Polling Booth No.109 to 112 respectively.

(b.) An appropriate writ (s), direction (s), order (s) commanding the respondents to make necessary addition / amendment / modification / correction in the electoral roll for 183 Kumhrar Assembly Constituency by registering the name of persons ordinarily residents of 183 Kumhrar

Assembly Constituency who have been shown as voters at Booth No.109 to 112, Bankipore Assembly Constituency.”

2. We have heard learned counsel appearing on behalf of the parties.

3. It is the case of the petitioners that they are ordinarily residents of 183 Kumhrar Assembly Constituency in the State of Bihar. According to them, in terms of the notification, issued on 17.08.2007, under Section 10 of the Delimitation Act, 2002, the Ward No.17 of the Patna Municipal Corporation, fell within the said 183 Kumhrar Assembly Constituency. It is their grievance that names of the residents of the said Ward No.17 (Old) do not find place in the electoral roll of 183 Kumhrar Assembly Constituency rather they have found themselves registered in the electoral roll of 182 Bankipore Assembly constituency.

4. We are not inclined to entertain this writ application for more than one reason. Firstly, the election process for Assembly Constituencies, in the State of Bihar, has already begun, there being bar to interference by the Courts in electoral matters under Article 329 (b) of the Constitution of India after the election process has been issued.

5. Secondly, a person has effective statutory



remedy under the ***Registration of Electors Rules, 1960 (hereinafter referred to as the "Rules")***, for correction of electoral roll or inclusion of one's name in the electoral roll. The said Rules lay down the detail and definite procedure for preparation of electoral rolls for Assembly Constituencies, which includes lodging of claims for inclusion of a name in the roll and objection to any entry made in an electoral roll. The Rules lay down procedure for consideration of such claims and objections on the question of inclusion of names inadvertently omitted or deletion of names wrongly included. The Rules prescribe for final publication of electoral roll as also remedy of appeal from the order deciding claims and objections as aforesaid. Specific reference may be made, in this regard, to Rules 10 to 22 and 23 of the Rules.

6. Thirdly, we find it difficult to consider the present writ application in view of the nature of reliefs, as sought for by five persons, in their individual capacity, claiming to be representing other electors, whose names find place in the electoral roll of 182 Bankipore Assembly constituency, who may or may not have any grievance against inclusion of their names in the concerned electoral roll.

7. Situated thus, we do not find any substance in the present application filed in the nature of Public Interest Litigation. It is, accordingly, closed.

8. The petitioners, however, shall have the liberty to take recourse to any other provision of law, as may be permissible to them.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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