

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11028 of 2016

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1. Virendra Kumar Vidyarthi, Son of Rajeshwar Prasad Singh, resident of village - Dakshini Chak, P.S. Athmalgola, District - Patna
 2. Surpramila Devi, Wife of Vikash Singh, resident of village - Rupas (Kamra Par), P.S. Athmalgola, District - Patna
 3. Sharda Devi, Wife of Binod Prasad Singh, Resident of village - Jamalpur, P.S. Athmalgola, District - Patna
 4. Jaimanti Devi, Wife of Nago Sao resident of village - Budhra, P.S. Athmalgola, District - Patna
 5. Geeta Devi, Wife of Ram Ratan Sao, resident of village - Bujurg Tola, Sabnima, P.S. Athmalgola, District - Patna

.... Petitioners

Versus

1. The State of Bihar through the District Magistrate, Patna
2. The District Magistrate - Cum - District Election officer (Panchayat), Patna
3. The Secretary, State Election Commission, Bihar, Patna
4. The Block Development Officer - Cum - Executive officer, Athmalgola, District Patna
5. The District Panchayati Raj Officer, Patna
6. The Sub Divisional Officer, Barh
7. Sushma Devi (Pramukh), Wife of Ramanuj Singh, resident of Chedisingh Tola, Ram Nagar, Karari Kachahar, P.S. Athmalgola, District - Patna
8. Dharmendra Kumar (Up - Pramukh), Son of Ramdev Yadav, resident of West Sabnima, P.S. Athmalgola, District - Patna

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Amish Kumar, Advocate
For the S.E.C.	:	Mr. Amit Shrivastava, Advocate Mr. Sanjeev Nikesh, Advocate
For the State	:	Mr. Pratik Mishra, A.C. to G.A.-V Mr. Ajay, Advocate
For the Respondents	:	Mr. K.N.Chaubey, Senior Advocate Mrs. Ritu Priyadarshini, Advocate Mr. Animesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 29-11-2016

Learned counsels for the parties have assisted the Court.

At the very outset, learned counsel for the respondents
raised a preliminary objection and submitted that there is a statutory

forum available, where at the first instance the grievance of the petitioners can be agitated.

Learned counsel for the petitioners submitted that the matter can be disposed off by this Court and the petitioners should not be relegated to the alternative forum.

Having considered the submissions of learned counsel for the parties, this Court is not inclined to consider the matter on merits directly, at the first instance, without the petitioners having availed the alternative remedy, which is equally efficacious and in fact, may be more expeditious. As per the notification of the State Election Commission in terms of Section 40 (4) of the Bihar Panchayat Raj Act, 2006, the District Magistrate of the concerned District has been notified to be the Authority before which any complaint relating to election can be filed.

Accordingly, the writ petition stands disposed off with liberty to the petitioners to move before the District Magistrate, Patna for setting aside the election of Pramukh and Up-Pramukh of Athmalgola block, for which elections were held on 27.06.2016.

However, in view of the fact that the petitioners have submitted representation to the State Election Commission with copies to the other authorities, including the District Magistrate, Patna, and the statutory period for filing such objection being seven

days, having already elapsed, the Court deems it appropriate to grant indulgence to the petitioners to the extent that if such elections are challenged before the District Magistrate, Patna on 6th of December, 2016, by filing appropriate petitions, along with a copy of this order, the same shall be considered expeditiously, in accordance with law, and disposed off within the time framed fixed as per Gazette Notification contained in Letter No. Vidhi 60-36/07-861, issued by the State Election Commission, Bihar and published in the extraordinary issue of the Bihar Gazette dated 31.08.2010. As the respondents no. 7 and 8 have appeared, they are also directed to appear before the District Magistrate, Patna on 6th of December, 2016 and in presence of all the parties, the next date shall be fixed.

(Ahsanuddin Amanullah, J.)

P.K./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.11.2016
Transmission Date	