

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9837 of 2016

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1. Sharmila Devi, wife of Sri Sunil Kumar, Resident of village- Laxmipur, P.O. Bhui, P.S. Silao, Districtt- Nalanda at Biharsharif.

.... Petitioner/s

Versus

1. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commissioner, the State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
3. The Secretary, the State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
4. The District Election Officer (Panchayat), Nalanda at Biharsharif, District-Nalanda at Biharsharif.
5. The Returning Officer (Panchayat Election), Rajgir Block District-Nalanda at Biharsharif.
6. Supriya Sinha, wife of Sri Sudhir Kumar, Resident of Village- Bichha Kol, P.O. Kajara, P.S. Silao, District- Nalanda at Biharsharif.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam, Adv.

For the Respondent/s : Mr. Amit Shrivastava, Adv.
Mr. Sanjeev Nikesh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-07-2016

Heard Mr. S.B.K. Mangalam, learned counsel for the petitioner and learned counsel for the State Election Commission.

The petitioner seeks to establish her success in the election on the basis of the electronic upload on the website of the State Election Commission which shows her as a winning candidate. A counter affidavit has been filed in which the lapse has been accepted to be a bonafide error and the factual position of the election is reflected in the communication of the Returning Officer present Annexure-R/2

which shows that whereas petitioner secured 2104 votes, the respondent no.6 who has been declared returned has secured 2234 votes.

Now Mr. Mangalam advances an argument that there was a bias in the Returning Officer toward the petitioner and there are allegations pending against him. In my opinion, these are issues of facts and which need to establish by evidence before the forum so prescribed in law. The petitioner's foundation lies on an electronic reflection, while the factual position is otherwise. No cause for interference is called for in a writ jurisdiction and the petitioner, if so advised can take recourse to the lawful remedy so available to her.

The writ petition is disposed of.

(Jyoti Saran, J)

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