

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1148 of 2016

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Ajay Singh S/o Late Shivnandan Singh, resident of Village- Pain, P.O.- Pain,
P.S.+District- Shekhpura.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
2. The Chief Election Officer, Bihar State Election Authority, 32 Harding Road, Patna.
3. The District Magistrate-cum-District Election Officer, Co-operative Society, Sheikhpura.
4. The District Co-operative Officer, Sheikhpura.
5. The Block Development Officer-cum-Election Officer, Pain PACS, Sheikhpura.
6. The Block Co-operative Officer cum Assistant Election Officer, Pain PACS, Sheikhpura.
7. The Joint Registrar, Co-operative Societies, Bhagalpur.
8. Navin Kumar S/o Late Sidheshwar Prasad Sharma, Chairman, Pain PACS, P.O.- Pain, P.S.- Sheikhpura, District- Sheikhpura.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Uma Shankar Verma, Advocate
Mr. Manendra Kumar Sinha, Advocate
For the Respondent/s : Mr. A. UJJWAL, SC-25

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-01-2016

Heard Mr. Uma Shankar Verma, learned counsel appearing
for the petitioner and learned counsel for the State.

The petitioner is aggrieved by order dated 10.12.2015
passed by the Joint Registrar, Cooperative Societies, Bhagalpur in
Election Dispute Case No. 32 of 2015, whereby the election case has
been dismissed.

Fact of the case briefly stated is that the petitioner and the



respondent no. 8 contested the election for the post of Chairman, Pain Primary Agriculture Credit Cooperative Society in the district of Sheikhpura in which the respondent no. 8 was declared elected. The petitioner being aggrieved by the result preferred the election dispute in question which has been dismissed and being aggrieved the petitioner is before this Court.

Mr. Uma Shankar Verma has strenuously argued to question the impugned order on grounds that the voter list was infracted as it contained ineligible voters as also members who were no longer alive. It is argued by Mr. Verma that an objection regarding the voter list was raised by the petitioner before the Returning Officer but remained pending and the Joint Registrar while adjudicating on the election dispute has recorded that no evidence was led by the petitioner to support the allegation nor any objection so claimed by the petitioner filed before the Returning Officer.

I have heard learned counsel for the parties and I have perused the records. Even when Mr. Verma while filing a supplementary affidavit today claims that an objection was filed before the Block Development Officer but the objection placed at Annexure-1 of the supplementary affidavit simply makes a vague allegation on the validity of the voter list with no specific details. Again even if the objection was not being entertained, the petitioner

never took recourse to any statutory or judicial remedy so available to him. Fact remains that the petitioner on the same voter list contested the election and having lost the same to the respondent no. 8, he now turns around to challenge the entire election. The election dispute was fit to be dismissed on more than one counts, namely:-

- (a) The election cannot be upset on an allegation of an infracted voter list simplicitor and more so on vague allegation.
- (b) The petitioner having contested the election on a voter list he cannot turn around to question the same in an election dispute.
- (c) Even if the petitioner is aggrieved by the result of his election to the post of Chairman, he has no right to question the election of the other members constituting the Managing Committee of the society in absence of any evidence supporting that their election stands materially affected by the voter list.

Law relating to the challenge of an election on a voter list stands well settled right since the judgment of the Apex Court rendered in the case of **Kunwar Nripendra Bahadur Singh vs. Jai Ram Verma & ors.** reported in **A.I.R. 1977 SC 1992**. The view of the Supreme court stands reiterated in the subsequent Judgment of the Supreme Court reported in **(2000) 8 SCC 46 (Shyamdeo Pd. Singh**

vs. Nawal Kishore Yadav) and (2010) 4 SCC 81 (Laxmi Kant Bajpai vs. Haji Yaqoob & ors.) That the petitioner having contested the election on a voter list and has lost, he has waived his right to question the election on the anvil of an infracted voter list in view of the position settled by this Court in the Judgment reported in **2006(1) PLJR 184 (Nasimuddin vs. State of Bihar).**

For the reasons discussed hereinabove, the writ petition is dismissed.

(Jyoti Saran, J)

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