

IN THE HIGH COURT OF JUDICATURE AT PATNA**Letters Patent Appeal No.662 of 2016****In****Civil Writ Jurisdiction Case No. 5391 of 2016**

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1. Chandani Kumari daughter of Sri Punit Mahto, Resident of Village- Kararbana, P.O- Bangraha, P.S.- Sursand, District- Sitamarhi.

.... Appellant/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), Sitamarhi, District- Sitamarhi.
5. The Returning Officer (Panchayat Election), Sursand Block, District- Sitamarhi.

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Vinod Kumar, Advocate

For the Respondent/s : Mr. Amit Shrivastava, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

2 18-04-2016 Heard Mr. Vinod Kumar, learned Counsel for the petitioner and Mr. Amit Shrivastava, learned Counsel appearing on behalf of the respondents.

2. The instant appeal has been preferred against part of the order, dated 18.3.2016, passed in C.W.J.C. No.5391 of 2016, whereby a learned single Judge has declined to accede to the prayer of the petitioner to accept her nomination for the post of Mukhiya of Gram Panchayat Raj,

Kararbana, under Sursand Block of Sitamarhi district, on the ground that the same would amount to extending the date of nomination already fixed by the State Election Commission.

3. The facts of the case, in short, are that earlier, the writ petitioner had approached this Court, under Article 226 of the Constitution of India, which gave rise to C.W.J.C. No. 4445 of 2016, contending therein that though her name figured in the voter's list for Assembly Elections, her name is missing from the voter's list of Panchayat Elections, and seeking a direction to the respondents to include her name in the voter's list. The writ application aforementioned came to be disposed of by order, dated 08.03.2016, with a direction to include the name of the petitioner in the supplementary voter's list.

4. Again, by filing C.W.J.C. No. 5391 of 2016, the writ petitioner sought for a direction to the respondents, particularly, the District Election Officer, Panchayat, and the State Election Commission, to include her name in the voter's list of Ward No.4 of Gram Panchayat Raj Kararbana, and also accept her nomination paper for the post of Mukhiya of the aforesaid Gram Panchayat, since respondent No.5 had refused to accept her nomination as she was not enlisted in the



relevant voter's list for Panchayat Elections. C.W.J.C. No. 5391 of 2016 was disposed of by the order, dated 18.03.2016, wherein the learned single Judge has observed that the name of the petitioner has been included in the voter's list, but declined to direct the respondents to accept her nomination paper as that would have amounted to extending the date of nomination.

5. Assailing the order of learned single Judge, the petitioner seeks direction to the respondents, particularly, the Chief Electoral Officer and the State Election Commission, to accept her nomination paper. The petitioner submits that in appropriate cases, even where the election process has started, the Court can issue necessary direction if the action of the election authorities has resulted in manifest injustice. The petitioner, in support of her submissions, has relied upon a Division Bench judgment in the case of ***Rama Ballabh Singh Keshari vs. State of Bihar***, reported in ***2001(2) PLJR 267***.

6. Learned Counsel for the respondents has justified the order of the learned single Judge.

7. It is well settled by a catena of decision that once election process starts, the Court would not issue directions or interfere with matters connected with the



election. It is not in dispute that on 18.3.2016, when the matter came up for consideration before the learned single Judge, the date of accepting nomination paper was already over. For any one, who is aggrieved by the action of the Electoral authority, the remedy would be only by way of election petition before the Election Tribunal, under the provisions of the Bihar Panchayat Raj Act, if the election process for Panchayat election has begun.

8. In the above view of the matter, the learned single Judge was correct in law in not acceding to the prayer of the writ petitioner to issue directions to the respondents to accept her nomination paper as that would amount to extending the date of nomination and, thus, interfering with the electoral process, which is not permissible in law. The reliance placed by the petitioner, on case of ***Rama Ballabh Singh Keshari*** (supra), would be of no help inasmuch as the factual aspects of the case are different. In the aforesaid case, the Returning Officer had rejected the nomination paper of the petitioner solely on the ground that he had filed more than one set of nomination papers. Nonetheless, the Division Bench, too, did not dispute the position of law that the Court would not interfere, in the matter, once election process has begun.

9. For the reasons stated hereinabove, we do not find any infirmity in the impugned order. The appeal is, accordingly, dismissed.

(I.A. Ansari, ACJ)

(Samarendra Pratap Singh, J)

Md.Jamaluddin Khan

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