

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7252 of 2016

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Kumar Ajay Devgan @ Oppy Ram @ Upendra Ram, son of Sri Rajoshari Ram,
resident of Village- Khuriyari, Gram Panchayat- Pratappur, Block- Halsi, P.S. –
Halsi, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, State Election Commission, Bihar, Patna.
3. The District Magistrate, Lakhisarai, District- Lakhisarai.
4. The Deputy Development Commissioner, Lakhisarai, District- Lakhisarai.
5. The District Panchayat Raj Officer -cum- Election Officer, Halsi, District- Lakhisarai.
6. The Block Development Officer -cum- Election Officer, Halsi, District- Lakhisarai.
7. Sri Sunil Sao, son of Late Shivdani Sao, resident of Village- Khuriyari, P.S.- Halsi, District- Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Indu Bhushan
For the Respondent-State	:	Mr Deo Narain Pandey, AC to GP-6
For the Respondent-SEC	:	Mr. Sanjeev Nikesh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 02-05-2016

Heard Mr. Indu Bhushan, learned counsel appearing for
the petitioner, learned counsel for the State and Mr. Sanjeev
Nikesh, learned counsel appearing for the State Election
Commission.

The petitioner is aggrieved by the rejection of his
nomination for the post of Mukhiya, Gram Panchayat, Pratappur in
the district of Lakhisarai which was filed on 31.3.2016.

This matter was heard on 25.4.2016 and following the
order of this Court that a counter affidavit has been filed by the



State Election Commission enclosing the order of the Returning Officer at Annexure-R/2 which reflects that the nomination of the petitioner has been cancelled, inter alia, on grounds of failure of the petitioner to produce the documents relating to his acquittal in the criminal case. A copy of the nomination is present on record along with the counter affidavit which again forms part of Annexure-R/2 and contains the declaration made by the petitioner. The affidavit so filed by the petitioner along with the nomination form, clearly mentions his acquittal in the appeal even while mentioning that he has been sentenced to life imprisonment by the trial court. The reasons assigned by the Returning Officer –cum- Block Development Officer, Halsi, District- Lakhisarai to reject the nomination merely records the failure on the part of the petitioner to produce supportive evidence. A copy of the judgment passed by this Court has been enclosed with the writ petition at Annexure-4 and records the acquittal of the petitioner at paragraph 63 of the judgment.

Although the jurisdiction of this Court to adjudicate on a rejection of nomination on merits stands circumscribed and law is well settled in this regard in view of the lawful recourse available to an aggrieved by way of election dispute but the case in hand falls in the category of exceptional circumstances where the rejection of



nomination is on a technicality of non-production of supportive evidence of acquittal by the petitioner. It is rather surprising that even though the petitioner has filed an affidavit in this regard and if the Returning Officer –cum- Block Development Officer had any doubt on the declaration so made by the petitioner relating to his acquittal in the criminal case then he should have afforded reasonable opportunity to the petitioner to produce the supportive document considering the nature of contest but the order of rejection simply on non-production of supportive document and even in absence of any challenge to the declaration made by the petitioner or any objection filed, is mechanical and ill founded.

Although Mr. Sanjeev Nikesh, learned counsel appearing for the State Election Commission and Mr. Deo Narain Pandey, learned Assisting Counsel to Government Pleader No.6 have tried to shield the Returning Officer by submitting that there was ambiguity in the declaration of the petitioner but in my opinion the ambiguity rests in the mind of the Returning Officer and not in the papers which clearly declares acquittal.

For the reasons aforementioned the order rejecting the nomination of the petitioner cannot be upheld and is accordingly set aside. The District Election Officer –cum- District Magistrate, Lakhisarai as well as the Returning Officer –cum- Block

Development Officer, Halsi, District- Lakhisarai are hereby directed to accept the nomination form of the petitioner and allow him to contest the election .

The writ petition is allowed.

(Jyoti Saran, J)

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CAV DATE	
Uploading Date	02-05-2016
Transmission Date	