

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7985 of 2016

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1. Pankaj Kumar, son of Sri Karan Singh, Resident of village- Tarwar, Ward No. 3, P.O. Tarwar, P.S.- Bheldi, District- Saran at Chapra.
 2. Lalan Pandey, son of Late Ram Balak Pandey, Resident of village- Tarwar, Ward No.4, P.O. Tarwar, P.S.- Bheldi, District- Saran at Chapra.

.... 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), Saran at Chapra, District- Saran at Chapra.
5. The District Panchayat Raj Officer, Saran at Chapra, District- Saran at Chapra.
6. The Sub- Divisional Officer, Marhaura, District- Saran at Chapra.
7. The Block Election Officer (Panchayat), Amnour, District- Saran at Chapra.
8. Smt. Sharda Devi, wife of Bindeshwari Rai, Resident of village- Shikarpur, P.O. Tarwar, P.S. Bheldi, District- Saran at Chapra, presently Mukhiya of Gram Panchayat Raj, Tarwar, District- Saran at Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Manglam
For the Respondent-State	:	Mr. Brajesh Kumar, AC to AAG-11
For the Respondent-SEC	:	Mr. Amit Shrivastava
		Mr. Sanjeev Nikesh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 12-05-2016 Heard Mr. S.B.K. Manglam, learned counsel appearing for the petitioners, Mr. Brajesh Kumar, learned Assisting Counsel to Additional Advocate General No.11 for the State and Mr. Amit Shrivastava, learned counsel appearing for the State Election Commission.

The petitioners are aggrieved by the location of the



polling booth of Ward No.3 i.e. Booth no.163 and Ward No. 4 i.e. Booth No.164 which are located in Primary School, Shikarpur (West) and Community Building, Tarwar respectively and are stated to be located near the house of the sitting Mukhiya.

The anxiety of the petitioners stands noted in the order passed by this Court on 5.5.2016 and does not require reiteration. Suffice it to say that according to the petitioners upon similar issue being raised in the previous Panchayat election of 2011, the District Magistrate –cum- District Election Officer had recommended for shifting of the polling booth from the same place at which it is presently established. According to Mr. Manglam, the shifting did take place in the previous election of 2011 but has been restored to its original position.

It is in the circumstances discussed that the District Magistrate was required to verify the position in the backdrop of the guidelines issued on the subject as well as the earlier report present at Annexure-2 and an affidavit is brought on record enclosing a notification issued by the State Election Commission dated 15.12.2015 in which in Clause 4.3(घ) prescribes the situs of booth beyond the distance of 100 meter from the house of the sitting Mukhiya. In the present case whereas booth no.163 is

stated to be situated at a distance of 588 meter, booth no.164 is stated to be situated at a distance of 618 meters from the house of the sitting Mukhiya.

In reference to the report it is argued by Mr. Brajesh Kumar, learned Assisting Counsel to Additional Advocate General No.11 that no doubt the opinion of the District Magistrate in the previous election was that the booths were near the house of the sitting Mukhiya but since now specific guidelines has been issued by the State Election Commission prescribing the distance of polling booth and both the booths meet the guidelines, hence it would not require any interference.

Having heard the parties and since the booths are situated within the statutory requirements prescribed by the Commission, no cause of indulgence is made out. The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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