

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8232 of 2016

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Amir Jafar @ Amir Zafar, S/o Md. Suhail Ahmad, Resident of Village:
Laukaha ,PO + PS Laukaha, District Madhubani.

.... Petitioner/s

Versus

1. The Bihar Election Commission through the State Election Commissioner, Bihar Sone Bhawan, 3rd, Floor, Virchand patel path Patna.
2. The State Election Commissioner, Bihar Sone Bhawan, 3rd, Floor, Virchand Patel Path, Patna.
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
4. The District Magistrate -cum- District Electoral Officer, Madhubani District Madhubani.
5. The Sub-Divisional Officer-Cum -Sub Divisional Electoral Officer, Phulparas District Madhubani.
6. The Block Development Officer Khutauna, District-Madhubani.
7. The Circle Officer Khutauna, District-Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhu Prasun
For the Respondent/s : Mr. Sanjeev Kumar
For the State E.C. : Mr. Sanjeev Nikesh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 16-05-2016 Heard the parties.

The petitioner while questioning the election to the post of Mukhiya, Gram Panchayat Raj, Karmegh North in the district of Madhubani scheduled to be held on 18.5.2016 has alternatively prayed for restoration of his candidature to the post which has been cancelled on a complaint made by one of the contestants questioning his nomination on the caste certificate.

Mr. Madhu Prasun, learned counsel appearing for the petitioner with reference to the caste certificate produced by the



petitioner present at Annexure-1, along with his nomination form submits that this caste certificate has been issued by the Circle Officer, Khutauna certifying him as coming under 'Mukeri(Muslim)' caste which falls in Extremely Backward Class vide Annexure-1 to the Bihar Reservation of Vacancies in Posts and Services (for SC, ST and other Backward Classes) Act, 1991 (hereinafter referred to as 'the Act'). He submits that this caste certificate has not been inferred with by any authority and continues to hold the field. It is his submission that at the time of scrutiny a complaint was filed by one of the contestants namely Badri Kumar Chaurasia questioning the nomination of the petitioner on grounds that similar caste certificate issued in favour of the family members of the petitioner has since been cancelled by the Circle Officer and thus persuading the Election Officer –cum- Block Development Officer, Khutauna, District-Madhubani for cancelling the nomination of the petitioner. It is argued that the Election Officer –cum- Block Development Officer, Khutauna has illegally upheld the complaint, cancelled the nomination and accordingly has intimated the District Panchayat Raj Officer, Madhubani. This order of the Block Development Officer has since been placed on record in the counter affidavit filed on behalf of the Commission today vide

Annexure-A.

It is the argument of Mr. Prasun, learned counsel appearing for the petitioner that the Block Development Officer –cum- Election Officer has proceeded on the complaint to order for the cancellation of the nomination simply on grounds that the caste certificate of the family members of the petitioner had been cancelled even when the caste certificate of this petitioner present at Annexure-1 has not been interfered with.

The issue raised by Mr. Prasun goes asking, for there is no response either by the learned State Counsel in the counter affidavit or in the counter affidavit filed by the Commission. It is further stated by Mr. Prasun that the election is due on 18.5.2016.

Having heard learned counsel for the parties and considering the circumstances discussed where it is on a mere complaint of an interested party that the Block Development Officer, Khutauna –cum- Election Officer, has blindly and mechanically proceeded to cancel the nomination of the petitioner simply on grounds that the caste certificate of the relatives of the petitioner has been cancelled, even when the caste certificate issued in favour of the petitioner present at Annexure-1 continues to hold good, it stands confirmed that the

act of cancellation of nomination of the petitioner is an abuse of the statutory powers vested in the Block Development Officer as the Election Officer and which is accordingly set aside. The nomination of the petitioner as well as candidature of the petitioner to contest the post of Mukhiya, Gram Panchayat Raj, Karmegh North, Madhubani, is restored and the Block Development Officer –cum- Returning Officer, Khutauna as well as District Election Officer, Madhubani are directed to permit the petitioner to contest the election. The order having been passed in presence of Mr. Sanjeev Kumar Singh, learned A.C. to S.C.-12 and Mr. Sanjeev Nikesh, learned counsel for the State Election Commission, it is sufficient information to the Returning Officer –cum- Block Development Officer and the District Election Officer –cum- the District Magistrate, Madhubani, for taking necessary steps to permit the petitioner to contest the election to the post of Mukhiya, Gram Panchayat Raj, Karmegh North, district- Madhubani.

The writ petition is allowed.

(Jyoti Saran, J)

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