

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20438 of 2014

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Dhanjee Lal, Son of Late Shambhu Lal, Resident of Village - Dulaur (Barat Parva), P.S. + Block - Jagdishpur, District - Bhojpur at Arrah.

.... Petitioner/s

Versus

1. The State Election Commission through its Secretary, having its office at Sone Bhavan, 3rd Floor near R. Block Round about Bihar, Patna.
2. The State Election Commissioner, having office at Sone Bhawan, 3rd Floor, Near R. Block Round about, Bihar, Patna.
3. The District Magistrate -cum- District Election Officer, Bhojpur at Arrah.
4. The State of Bihar through the Sub-Divisional Officer, Jagdishpur, District - Bhojpur.
5. The District Panchayati Raj Officer, Bhojpur at Arrah.
6. The Circle Officer, Jagdishpur, District - Bhojpur at Arrah.
7. Kailash Sharma, Son of Late Shiv Bachan Sharma, Resident of Village-Dulaur, P.S. - Jagdishpur, District - Bhojpur at Arrah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Respondent-SEC : Mr. Amit Shrivastava

Mr. Sanjeev Nikesh

For the Respondent-State : Mr. Sanat Kumar Mishra, AC to AAG-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 04-03-2016 Heard Mr. Arun Kumar, learned counsel appearing for the petitioner, Mr. Sanat Kumar Mishra, learned Assisting Counsel to Additional Advocate General No.8 for the State and Mr. Sanjeev Nikesh, learned counsel appearing for the State Election Commission.

The petitioner is aggrieved by the order 15.10.2014 passed by the State Election Commissioner in Case No.44 of 2011, whereby the petitioner has been disqualified from holding the post of Ward Member, Ward No.11 of Gram Panchayat Raj

Utarwari Jangal Mahal under Jagdishpur Block in the District of Bhojpur.

It is considering the apparent illegality as well as the perversity in the order impugned that notice was issued to the private respondent no.7 who was also directed to be served dasti and which has since been served which is manifest from the affidavit filed by the petitioner.

The complainant-respondent no.7 has not chosen to appear and understandably because the order impugned shows that an application was filed by the complainant on 21.4.2014 seeking to withdraw the case, yet the State Election Commission has proceeded to adjudicate on the matter and even in absence of any evidence to establish that the petitioner does not come within the reserved category of *Sinduria* caste that he has proceeded to hold that the petitioner belongs to *Sinduria Lala* category which, as per the understanding of the State Election Commissioner comes under the *Kayastha* caste. The finding is perverse for there is no sub-caste within the *Kayastha* caste which is known as *Sinduria Lala*. Apart therefrom considering that the report submitted by the district authorities has supported the claim of the petitioner and which is also manifest from the counter affidavit filed by the Circle Officer who has upheld the

caste of the petitioner as *Sinduria* which falls under the extremely backward category, I would not be entering into any further discussion to hold that the order impugned is illegal, contrary to the evidence on record and is based on presumptions and assumptions.

In the result, the order dated 15.10.2014 passed by the State Election Commissioner in Case No.44 of 2011 cannot be upheld and is accordingly set aside.

The writ petition is allowed.

(Jyoti Saran, J)

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