

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21934 of 2014

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Rajiv Kumar Mishra son of Sri Kishore Kumar Mishra R/o village - Mau,
P.S. Tekari, District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar through the District Election Officer -cum- District Magistrate, Gaya
2. The Sub Divisional Officer, Tekari, Gaya
3. The Returning Officer - cum - B.D.O., Tekari, District Gaya
4. Sateyendra Kumar Sharma Son of not Known to the Petitioner R/o village - Mau, P.S. Tekari, District - Gaya
5. Braj Bhushan Sharma Son of not Known to the Petitioner R/o village - Mau, P.S. Tekari, District - Gaya
6. Rajnish Ranjan Son of not Known to the Petitioner R/o village - Mau, P.S. Tekari, District - Gaya
7. Ranjan Manjhi Son of not Known to the Petitioner R/o village - Mau, P.S. Tekari, District - Gaya
8. Lalita Devi Wife of not Known to the Petitioner R/o village - Mau, P.S. Tekari, District - Gaya

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ravi Shankar, Advocate

For the Respondent/s : Mr. Ritesh Kr. SC-33

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 30-03-2016 Heard Mr. Rabindra Kumar, learned counsel for the

petitioner and Mr. Ritesh Kumar, learned SC-32.

Although this writ petition was initially filed questioning the election of the private respondent no. 4 and for a recount of the votes polled but when this matter was taken up, it was fairly informed by Mr. Griyage that at the same time the petitioner had also preferred an election dispute and which had since been disposed of. It is taking note of such circumstances and without



entering into the technicalities attached that this Court permitted the petitioner to question the order passed by the prescribed authority on the election dispute in the present proceeding itself and following which a supplementary affidavit has been filed enclosing the copy of the order dated 11.4.2015 / 25.4.2015 passed by the Joint Registrar in Election Case No. 340 of 2014, a copy of which is impugned at Annexure-6 to the supplementary affidavit.

I have heard learned counsel for the parties and I have perused the records. The copy of the election petition was produced during the course of the proceeding and the cursory glance to the relief prayed in the election dispute itself reflects the fatality in the dispute raised. A simplicitor prayer of recount has been made. I have gone through the opinion expressed by the Joint Registrar to dismiss the election case and apart from the fact that I am not persuaded enough by the argument of Mr. Griyage to interfere with the opinion expressed by the prescribed authority on the prayer of recount but even otherwise in the circumstances where the petitioner in his election dispute has prayed simplicitor for a recount of the votes without challenging the election and without making any prayer to set aside the election of the returned candidate as mandated under Section 10 read with Section 12 of

the Bihar State Election Authority Act which *inter alia* provides that an election to any office of the body can only be challenged by way of election petition on the grounds mentioned in Section 12 and which challenge is not present in the present contest, in my opinion even otherwise the election case itself was not maintainable. In fact even the prayer for recount did not merit consideration for there is no evidence supporting the allegations.

In the circumstances discussed above, no cause is made for interference with the order of the Joint Registrar impugned at Annexure-6 and thus writ petition is dismissed accordingly.

(Jyoti Saran, J)

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