

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1637 of 2012

IN

Civil Writ Jurisdiction Case No. 14675 of 2007

- =====
1. The State Election Commission (Panchayat) through the State Election Commissioner, Sone Bhawan, Bir Chand Patel Path, Bihar, Patna
 2. The Secretary, the State Election Commission (Panchayat), Sone Bhawan, Bir Chand Patel Path, Bihar, Patna
 3. The Deputy Secretary, the State Election Commission (Panchayat) Sone Bhawan, Bir Chand Patel Path, Bihar, Patna

.... Appellants

Versus

1. Uma Shankar Rana, S/O Late Brij Nandan Rana, R/O Village-Madhupur Basawan @ Bhataulia, P.S.- Minapur, District- Muzaffarpur
2. Ashok Kumar Rana, S/O Sri Ram Prasad Rana, R/O Village-Madhupur Basawan @ Bhataulia, P.S.- Minapur, District- Muzaffarpur
3. The State Of Bihar
4. The Secretary, Rural Development Department, Government of Bihar, Patna
5. The District Magistrate, Muzaffarpur, District- Muzaffarpur
6. The District Panchayat Raj Officer, Muzaffarpur, District- Muzaffarpur
7. The Block Development Officer, Minapur, District- Muzaffarpur

.... Respondents

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Appearance :

For the Appellants	:	Mr. Ram Shankar Pradhan, Sr. Advocate Mr. Sanjeev Nikesh, Advocate Mr. Jainanda Kumar, Advocate
For the Respondents	:	Mr. S.B.K. Mangalam, Advocate Mr. Ravi Ranjan, Advocate
For the Respondent State:		Mr. Kumar Alok, SC-8

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 23-02-2016

Challenge in the present Letters Patent Appeal is to an
order passed by the learned Single Bench on 17th August, 2012,



whereby the orders dated 16th of January, 2007 (Annexure 16/1) passed by the District Magistrate, Muzaffarpur, and the order dated 31st July, 2007 (Annexure 17) passed by the State Election Commission have been quashed, with a direction to the District Magistrate, Muzaffarpur, to consider the next census operation(2011) while considering the claim of the petitioners and other interested persons.

2. The grievance of the appellants is that the order passed by it in exercise of the revisional jurisdiction under Section 11 of the Bihar Gram Panchayat Raj Act, 2006, has been interfered with which is not warranted. Learned counsel for the appellant refers to the amendment carried out by Bihar Act 11 of 2014, whereby the figures taken in the year 2011 and 2001 used in the second proviso to Section 127 of the Bihar Gram Panchayat Raj Act, 2006, was substituted by the figures 2021 and 2011 respectively. It is, thus, contended that the census of 2011, the basis of the order of the learned Single Bench cannot stand in view of the subsequent amendment in the statute.

3. Section 11 of the Bihar Gram Panchayat Raj Act, 2006, empowers the District Magistrate to declare any local area comprising a village or a group of contiguous villages or part thereof to be a Gram Panchayat area, subject to the general or special orders of the Government.

4.The State Election Commission in terms of sub-section (2) of Section 11 of the Act can examine the legality and propriety of any Gram Panchayat declared under sub-section (1) and may pass such orders as it may considers fit and proper.

5.The grievance of the writ petitioner is regarding naming of the Gram Panchayat by taking into consideration the population of Backward category. The writ petitioners referred to Bihar Government Gazette dated 19th October, 1993, issued by the State Government in exercise of powers conferred under sub-section (1) of Section 11 of the Bihar Panchayat Raj Act, 1993 in respect of the constitution of the Gram Panchayat and its name. The entire claim of the writ petitioner is based on such notification attached in Annexure 1 to the writ petition.

6.Whether the census of 2001 and 2011 is relevant and what should form basis of constitution of Gram Panchayat , falls within the exclusive domain of the District Magistrate and the State Government subject to the power of the Election Commission under sub-section(2) of Section 11 of the Act. But we find that no direction has been issued by the learned Single Bench to reconsider the matter in any particular way warranting any interference in exercise of jurisdiction under Letters Patent Appeal.

7.In view of the above, we do not find any merit in the

Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, J)

B.K.Roy/-

(Navaniti Prasad Singh, J)

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