

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10107 of 2016

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Kiran Devi, wife of Sri Rajaendra Yadav, resident of village-Bairbigha,
P.O. Karpi, P.S. Karpi, District-Arwal

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
2. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commission
3. The Secretary, the State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna
4. The Divisional Commissioner, Magadh Division, Gaya
5. The District magistrate, Arwal, District-Arwal
6. The Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Arwal, District-Arwal
7. Ranjay Kumar, son of Sri Jhalak Singh, resident of village-Ahar, P.O. and P.S. Arwal, District-Arwal, presently Chairman, Zila Parishad, Arwal, District-Arwal

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam, Advocate
For the State : Mr. Vinay Kirti Singh, GA-3
For the State E.C. : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate
For the Respondent no. 6 : Mr. Nikesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 05-07-2016

Heard Mr. S.B.K. Manglam, learned counsel for the petitioner, learned counsel for the State and learned counsel for the Commission.

The petitioner prays for quashing of the proceedings dated 17.6.2016 which led to the election of the respondent no. 7 as Adhyaksha, Zila Parishad, Arwal.

It is a matter of record that of the nine members who participated in the voting while 8 vote cast was held valid, one vote was held invalid since it contained the cross mark and also had the name of the petitioner.

The District Magistrate presiding over the election in reference to the provisions underlying Rule 96 of the Bihar Panchayat Election Rules, 2006 (hereinafter referred to as 'the Rules'), declared the said vote invalid. Rule 96 of 'the Rules' amongst other conditions also provides in clause(a) that a ballot paper shall be treated as invalid if it bears the signature of a member or there is such visible word present on the ballot which may lead to the identification of the voter. It is not in dispute that the vote so declared invalid contained the name of the petitioner. Of the remaining 8 votes, the two contestants secured equal votes at four each and which led to an exercise in terms of Rule 98 of 'the Rules' requiring a decision by draw of lots in which the contestants including the petitioner participated and lost as the lottery went in favour of the other contestant i.e. the respondent no. 7. The petitioner now turns around to question the decision by submitting that a mere instance where the name of the petitioner was found written on the ballot would not be sufficient to declare it invalid unless it leads to identification of the voter. Interestingly even when the petitioner admits to the position vide her representation present at

Annexure-3 that she committed such irregularity of mentioning her name on the ballot paper meaning thereby her identification was made known yet Mr. Manglam who appears for the petitioner proceeds to canvass that the admission simplicitor would not bring the matter within the purview of Rule 96(a) of ‘the Rules’ until such time that the identification is confirmed by the Presiding Officer.

In my opinion a rather misconceived submission is being made by Mr. Manglam in complete misconception of the legal provisions and which can only be termed ridiculous and is accordingly rejected. In fact the moment a name would occur on a ballot paper which can be connected to any elected member present and voting then there need not be any deep rooted investigation and that particular vote has to be declared invalid, whether or not the concerned member would admit to committing such infirmity or not.

The writ petition is dismissed.

(Jyoti Saran, J)

S.Sb/-

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