

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3899 of 2016

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Pinki Kumari Wife of Sri Subhash Kumar, Resident of Village - Jibachhpur, P.S. -
Gamhariya, District - Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariate, Bihar, Patna.
2. The Principal Secretary, Co-operative Department, Government of Bihar, Patna.
3. The Registrar, Co-operative Society, Bihar, Patna.
4. The Commissioner, Koshi Division, Saharsa.
5. The District Magistrate, Madhepura.
6. The Joint Registrar Co-operative Societies Koshi Division, Saharsa.
7. The Chief Election Officer, Bihar State Election Authority, 32, Housing Road, Patna.
8. The District Co-operative Officer, Madhepura.
9. The Block Development Officer, Cum - Election Officer, Gamhariya, District - Madhepura.
10. The Jibachhpur Primary Agriculture Credit Society through its Manager, Jibachhpur Block Gamharia, District - Madhepura.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Amarnath Jha, Adovcate

For the Respondent/s : Mr. ANSHUMAN SINGH, GP-24

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 01-03-2016

Heard Mr. Amarnath Jha, learned counsel for the petitioner, counsel for the State and Mr. Mukesh Kumar for the State Election Authority.

The petitioner prays for a direction to the Returning Officer-cum-Block Development Officer, Gamhariya in the District of Madhepura permitting her to file her nomination to contest the election for the post of Chairman, Jibachhpur Primary Agriculture Credit Cooperative Society, Block-Gamhariya in the District of

Madhepura.

Fact of the case briefly stated is that the Society in question got dissolved by virtue of majority of the elected members having resigned and thus the consequences flowing from Section 41(5) took its shape. A notification for fresh election bearing no. 686 dated 07.7.2015 was issued by the State Election Authority inviting nominations against the post and since the petitioner had questioned the dissolution on its validity before this Court in CWJC No. 11488 of 2015 that she did not choose to file her nomination. Ultimately the writ petition stood disposed of upholding the dissolution in view of the legal position settled by this Court vide judgment and order passed in batch of cases arising from CWJC No. 9491 of 2015.

The grievance of the petitioner is that since she was pursuing her remedy before this Court for questioning dissolution itself hence she did not file her nomination and the last date of which was closed on 06.8.2015. It is submitted by learned counsel for the petitioner that this Court in consideration of the matter in dispute had also stayed fresh election until further orders. It is submitted that it is in these circumstances that the petitioner did not respond to the notification bearing No. 686 dated 07.7.2015 notifying the elections and whereunder the nominations were to be filed on 05.8.2015 and 06.8.2015 in respect of the Societies notified thereunder including the

petitioner's Society.

Mr. Amarnath Jha, learned counsel for the petitioner submits that the election authority vide notification dated 09.2.2016 though has extended the date for scrutiny of the nomination so filed but has not granted opportunity to such of the intending candidates who were engaged in litigation and for the said reason could not file their nomination within the period prescribed earlier. The limited grievance raised by the petitioner is to permit the petitioner to file her nomination in the extraordinary circumstances where the dissolution itself was questioned by her before this Court in CWJC No. 11488 of 2015 and by order dated 05.8.2015, this Court had stayed the election process.

I have heard learned counsel for the parties and I have perused the records. The petitioner had questioned the dissolution of the Committee before this Court in CWJC No. 11488 of 2015 and in which an order of interim stay of election had been passed. She thus cannot be held at fault for not filing her nomination responding to the Notification No. 686 dated 07.7.2015. That the State Election Authority upon the disposal of the matter have decided to hold the election of all such societies which stood superseded or dissolved and in which direction the Notification No. 102 dated 09.2.2016 has been issued in particular respect of the Society in question, I am of the

opinion that while providing for scrutiny and inviting objections, the authority should also have afforded opportunity to such of the candidates who but for the pendency of the matter before this Court could not file their nominations.

In the extraordinary circumstances noted above, the Bihar State Election Authority including the Block Development Officer-cum-Election Officer, Gamhariya, District-Madhepura is directed to accept the nomination of the petitioner and permit her to contest the election.

Since this order is being passed in the presence of Mr. Mukesh Kumar appearing for the State Election Authority, he shall communicate the same to the authority concerned for ensuring compliance.

The writ petition is allowed.

(Jyoti Saran, J)

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