

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7633 of 2016

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Vandna, wife of Mr. Pankaj Roy, resident of village+post-Diyanwa, Police Station-Karai Parsurai, District Nalanda

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
2. The District Magistrate, Nalanda
3. The District Panchayati Raj Officer, Nalanda
4. The sub Divisional Officer, Hilsa District Nalanda
5. The Returning Officer cum Block Development Officer, Karai Parsurai Block, District Nalanda
6. The Bihar State Election Commission through its Secretary, Sone Bhawan, R-Block, Patna-800001

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Adv.

For the Respondent/s : Mr. Anjani Kumar- AAG-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 29-04-2016

Heard learned counsel for the parties.

The nomination form of the petitioner has been rejected because the name is not figuring in the Panchayat voter list. Learned counsel for the petitioner while admitting that the name of the petitioner did not figure in the Assembly Voter List of 2015 submits that it was subsequently incorporated on 11.3.2016, a copy of which is placed at Annexure-4. According to the petitioner, no sooner the name of the petitioner gets included in the Assembly voter list that it should automatically be included in the Panchayat voter list, even if the petitioner does not file any application form.



In my opinion, the submission is absurd and is rejected. Whereas Section 126 of the Bihar Panchayat Raj Act (hereinafter referred to as 'the Act') clearly stipulates that all such persons who are enrolled as voters in the State Assembly constituency shall be voters in the Panchayat election, it further vests jurisdiction in the State Election Commission to dispose of any representation in this regard. The provision also very clearly stipulates that no alteration to the voter list can be made after a notification is issued by the Governor under Section 124 of 'the Act'. For the present Panchayat elections, a notification to this effect was issued on 25.2.2016. The petitioner though claims that she filed her application for inclusion in the Assembly voter list on 9.2.2016 but her name was included in the Assembly voter list only on 11.3.2016 i.e. after the notification was issued under Section 124 of 'the Act'.

In my opinion, the petitioner has completely failed to comply with the legal requirements. Whereas Section 126 of 'the Act' gives a right to such of the voters whose name is present in the Assembly voter list of the previous election, for inclusion in the Panchayat voter list and the State Election Commission has also clarified this issue vide circular dated 9.3.2016 advising the Returning Officers not to reject nomination on this ground but for such of the voters whose name did not figure in the Assembly voter list nor did it figure in the

draft Panchayat voter list, the State Election Commission has prescribed form (५•) provided the voter concerned has resided in the constituency for not less than 180 days. Thus a mere inclusion of the name of the petitioner in the assembly voter list in 2016 ipso facto would vest no right in the voter to claim automatic inclusion in the Panchayat Voter list rather these voters had also to apply in form ‘(५•)’ so prescribed. The option was available to the petitioner for inclusion of her name in the Panchayat voter list but she took no steps except to get her name included in the Assembly voter list in 2016, which on its own is not sufficient for her inclusion in the Panchayat voter list for the current election. The situation as it exists is that the name of the petitioner does not figure in the Panchayat voter list nor there is any thing on record to show that she took any steps for such inclusion. No cause for indulgence is made out.

The writ petition is dismissed.

(Jyoti Saran, J)

Bibhash/-

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