

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8260 of 2016

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Dashrath Mahto son of Late Ratan Mahto, resident of village-Bairiya, P.S.
Kesharia, District-East Champaran at Motihari

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Patna
2. Principal Secretary, Department of Panchayati Raj, Patna
3. The Bihar State Election Commission, Birchand Patel Marg, Patna through its Secretary
4. The State Election Commissioner, State Election Commission, Birchand Patel Marg, Patna
5. District Magistrate cum District Election Officer, East Champaran, Motihari
6. District Panchayati Raj Officer, East Champaran, Motihari
7. Block Development Officer cum Election Officer, Panchayat, Kesharia, East Champaran at Motihari

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP-18
For the State E.C. : Mr. Amit Shrivastava, Advocate
Mr. Sanjeev Nikesh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 20-05-2016 Heard Mr. Sanjay Kumar, learned counsel for the petitioner, Mr. Vivek Prasad, G.P.-18 for the State and Mr. Amit Shrivastava who appears along with Mr. Sanjeev Nikesh for the State Election Commission.

Although this matter was directed to be listed under the heading 'For orders' today but since it was not reflected in the cause list that it has been notified as such and has been taken up for consideration.

The matter relates to shifting of polling booth no. 112

for the voters of Gram Panchayat Baradih in the District of East Champaran which has been shifted from Upgraded Middle School, Urdu Bariaya, Baradih Northern Part to Rajkiya Upgraded Middle School, Urdu Baraiya Northern side (Urdu Makhtab, Bairaiya).

Mr. Sanjay Kumar learned counsel with reference to the representation of about 200 voters of Ward No. 12 present at Annexure-3 submits that the attention of the District Magistrate has been drawn by the voters requesting him to restore the original position of the polling booth *inter alia* on grounds that the new location is within the reach of the house of the Mukhiya and that there was no occasion for its shifting once a decision is taken to establish it in the Upgraded Middle School, Urdu Bariaya, Baradih in its Northern Part. It is in consideration of the grievance raised that counsel for the State and State Election Commission were directed to seek instruction and inform this Court accordingly and whereafter a letter of the District Magistrate as addressed to the State Election Commission dated 19.5.2016 has been placed on record explaining the circumstances for the shifting of the booth. While the District Magistrate on the basis of an enquiry conducted by the Sub Divisional Officer, Chakia has stated that the location of the new polling booth is beyond the stipulated 100 meters from the house of the sitting Mukhiya, the reasons assigned for the

shifting of the polling booth is that even in the previous 2011 Panchayat elections, the polling booth was situated at the Rajkiya Upgraded Middle School, Urdu Bariaya, Baradih Northern Part (Urdu Makhtab, Bairaiya). It is stated that although initially the polling booth was notified at the Upgraded Middle School, Urdu Bariaya, Baradih Northern Part which falls in Ward No. 9 but when it was noticed that in the previous election, 2011 the polling booth for the voters of Ward No. 12 was established at Ward No. 13 at Rajkiya Upgraded Middle School, Urdu Baraiya Northern side (Urdu Makhtab, Bairaiya), hence a decision in this regard has been taken.

Considering the explanation so advanced by the District Magistrate in the backdrop of the fact that even in the previous election the polling booth was situated at the Rajkiya Upgraded Middle School, Urdu Baraiya Northern side (Urdu Makhtab, Bairaiya) as well as the report of the Sub Divisional Officer certifying the distance of the polling booth from the house of the Mukhiya, I am not persuaded to interfere with the decision.

The writ petition is disposed of.

(Jyoti Saran, J)

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