

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8471 of 2016

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1. Gopalji Sahani, Son of Sri Mohar Lal Sahani. Resident of Village- Pakari, P.O. East Pakari, P.S. Dumaria Ghat, District- East Champaran at Motihari.

.... 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 Commissioner.
3. The State Election Commissioner, the State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
4. The Secretary, the State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna. null null
5. The District Magistrate-cum-District Election Officer (Panchayat), East Champaran at Motihari, District- East Champaran at Motihari.
6. The Deputy Collector Land Reforms, East Champaran at Motihari, District - East Champaran at Motihari.
7. The Sub- Divisional Officer, Areraj, District- East Champaran at Motihari.
8. The Block Development Officer, Sangrampur-cum-Returning Officer (Panchayat Election), Sangrampur Block, District- East Champaran at Motihari.
9. The Circle Officer, Sangrampur, District- East Champaran at Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B. K. Manglam, Adv.

For the Respondent/s : Mr. Iqbal Assif Niaze, A.C. to S.C.4

For the Election Commission: Mr. Amit Srivastava, Adv.

Mr. Girish Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 20-05-2016

Heard learned counsel for the parties.

The petitioner is aggrieved by the decision of the authorities connected with the Panchayat Election to shift the polling booth of the voters of Ward No. 5, Gram Panchayat Raj, Bhawanipur South from its earlier established place at Middle School, Matwa Ram to Navsrijit Primary School, Mahuawa Tola.

Mr. S.B.K. Mangalam learned counsel appearing on behalf of the petitioner with reference to the draft voter list present at



Annexure-2 as well as the final voter list present at Annexure-11 to the supplementary affidavit submits that there was a conscious decision of the District Magistrate-cum-District Election Officer to establish the polling booth at Middle School Matwa Ram but for the reasons best known it is being shifted to a Navsrijit Primary school, Mahuawa Tola which falls in Ward No.3. According to Mr. Mangalam apart from the fact that a finality is to be attached on the booth list, it also should not be interfered with lightly since even the Election Officer cum Sub Divisional Officer had made recommendation for allowing the polling booth to remain at its previous place.

The State as well as the State Election Commission were required to answer the issues raised and when a letter of the District Magistrate-cum-District Election Officer as addressed to the State Election Commission dated 14.5.2016 recommending for transfer of the booth to the Upgraded Navsrijit Primary School, Mahuawa Tola has been placed on record in which it is stated that the polling booth for Ward No.5 was established in the Middle School, Matwa Ram which is situated in Ward No. 4 since there was no Government building or semi Government building available within Ward No.5. It is further mentioned that subsequently a report was received from the Block Development Officer pointing out the existence of the Navsrijit Primary School, Mahuawa Tola in Ward No. 5 and which proposal



was considered in the backdrop of the guidelines of the State Election Commission requiring an establishment of booth in each ward. Mr. Mangalam questioning the report of the District Magistrate has submitted that since there is a dispute as to whether the school in question is situated in Ward No.3 or Ward No.5 hence there was no occasion for the District Magistrate to take any decision for shifting of booth.

Mr. Amit Srivastava, learned counsel appearing for the Commission while justifying the decision of the District Magistrate in the light of the guidelines and availability of a polling booth within the Ward has also questioned the locus of the petitioner to maintain the writ petition. An objection has been raised by Mr. Srivastava as to the maintainability of the writ petition on grounds that the petitioner himself not being a resident of Ward No.5, he can raise no objection as to the situs of the booth and in absence of any grievance being raised by the local voters, the issue raised is academic. Mr. Srivastava has also questioned the statement made by the petitioner at paragraph 4 of the writ petition stating that he is a resident of Ward No.5 when in fact he is resident of Ward no. 11. It is further argued that the petitioner nowhere has disclosed that he is contesting the election and thus is guilty of suppression of material fact from this Court.

It is considering the contest in question and in order to resolve the confusion regarding the location of the school that the Circle

Officer, Sangrampur was directed to inform this Court as to whether the Navsrijit Primary School, Mahuawa Tola is situated in Ward Nos. 3 or 5 and what would be the traveling distance of the voters to the said booth. It is in tune with the orders of this Court passed on 17.5.2016 that the Circle Officer has informed the District Magistrate that the Navsrijit Primary School, Mahuawa Toal is situated in Ward No.5 and the traveling distance for the voters is 1.4 kilometers (Mr. Srivastava informs that the distance has been incorrect typed as ¼ kilometers).

By that as it may, this Court instead of getting into the intricacies of the dispute and the labyrinth of allegations and rebuttals would restrict itself to the decision making process as regarding the shifting in the situs of the booth and in view of the statutory prescription and the circumstances discussed in the report of the Circle Officer where the proposed booth is stated to be in Ward No.5 and within the reach of the voters, this Court is not persuaded to interfere with the decision of the Election Authorities to establish the booth at the Navsrijit Primary School, Mahuawa Tola.

The writ petition is disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
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