

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22911 of 2013

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Baban Prasad Singh, Son of Late Ram Pratap Singh, Resident of Village - Sonapur Dih, P.O. Haspur, P.S. Nayagaon, District - Begusarai, Presently Residing at Mohalla - Harakh, P.O. Begusarai, P.S. Begusarai Town, District – Begusarai.

.... Petitioner/s

Versus

1. The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna.
3. The Joint Election Commissioner -cum- Additional Secretary, the State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna.
4. Ram Vinay Singh, Son of Late Ram Lakhan Singh, Resident of Mohalla - Mirjapur Bandwar, P.O. Mirzapur Bandwar, P.S. Begusarai Town, District – Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam
For the Respondent/s : Mr. Amit Shrivastava
Mr. Sanjeev Nikesh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 20-04-2016 Heard Mr. S.B.K. Manglam, learned counsel appearing for the petitioner, and learned counsel for the State Election Commission. Though served and having appeared through counsel, there is no representation on behalf of the respondent no.4.

The petitioner is aggrieved by the order dated 30.10.2013 passed by the State Election Commission in Misc. Case No.05 of 2011 initiated on a complaint made by the private respondent, a copy of which is impugned at Annexure-1,



whereby the State Election Commission has held the petitioner disqualified under the provisions of section 18(1) (l) read with section 18(2) of the Bihar Municipal Act, 2007 (hereinafter referred to as 'the Act') and the 'Rules' framed thereunder. The allegation against the petitioner is of having abused the power as a Councillor.

The complaint is at Annexure-1 and charges the petitioner of being registered in three territorial Panchayat Constituencies and of obtaining ration coupons under the public distribution system from three places. It is upholding the complaint so made that the petitioner was held disqualified by the impugned order.

This matter was taken up for consideration by this Court on 29.11.2013 and a coordinate Bench while issuing notice to the respondent no.4, has stayed the operation of the impugned order dated 30.10.2013 passed by the State Election Commission.

It is the election of the petitioner as a Ward Councillor, Begusarai Municipal Corporation held in 2011 that was put to challenge in the election case. It is informed by Mr. Manglam, learned counsel appearing for the petitioner that fresh election has since been taken place in the year 2016 in which the

petitioner has again been elected.

In the circumstances so discussed and finding prima-facie the complaint not coming within the confines of section 18(1) (l) of 'the Act' I am not persuaded to uphold the opinion of the State Election Commission which is accordingly set aside and the interim order passed on 29.11.2013 is confirmed.

The writ petition is allowed.

(Jyoti Saran, J)

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