

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.514 of 2016

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1. Prem Kant Dubey, son of Late Baidnath Dubey, resident of village-Alipur, P.O.-Dhawpokhar, P.S. –Sonahan, Block-Bhabhua, District Kaimur.
 2. Binay Kumar Singh, son of Sri Paras Nath Singh, resident of village-P.O.-Piyan, P.S.-Sonahan, Block-Bhabhua, District-Kaimur.
- Petitioners.

Versus

1. The State of Bihar
 2. The Registrar, Co-operative Societies, Bihar, Patna
 3. The Deputy Registrar, Cooperative Societies, Patna Division, Patna
 4. The District Magistrate cum District Returning Officer, Kaimur at Bhabhua
 5. The District Co-operative Officer, Kaimur, Bhabhua cum alternate District Returning Officer.
 6. The Block Development Officer cum Block Returning Officer, Bhabhua, Kaimur.
- Respondent 1st set.
7. Ramesh Pratap Singh, son of Mathura Singh, resident of Mohalla-Gajrarh, Gaurakshni, P.O.+P.S. Sasaram, District –Rohtas
- Respondent 2nd set.
8. Arjun Sharma, son of Tuteshwar Sharma, R/o- village Pokhra, P.O.-Piyan, District-Kaimur.
 9. Balmiki Rai, son of Baban Rai, R/o-Village Sukul Purwa, P.O. Mohan Dadwan, District Kaimur.
 10. Mahuat Primary Agricultural Credit Cooperative Societies through its PACS Secretary, village+P.O.Piyan, District Kaimur Respondent 3rd Set
 11. Manindra Kumar Singh, son of not known to the petitioner, presently posted as BDO cum Block Returning Officer, Bhabhua, Kaimur, R/o-Village Fakils, P.S. Karahgar, District Rohtas.
- Respondent 4th set.
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Appearance :

For the Petitioner/s : Mr. Rakesh Narayansingh, Adv.
For the Respondent/s : Mr. A. Ujjwal, S.C.25

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 18-01-2016 Heard learned counsel for the parties.

The two petitioners are aggrieved by the order dated 19.11.2015 passed by Deputy Director, Cooperative Societies, Patna Division, Patna in Election Case No. 32 of 2015 whereby the election case has been dismissed.



The facts of the case briefly stated is that the two petitioners along with respondent nos. 7, 8 and 9 contested the post of Chairman, Mahuat Primary Agriculture Credit Cooperative Society in which the respondent no. 7 was declared elected and being aggrieved the two petitioners herein filed the election dispute giving rise to Election Case No. 32 of 2015 and which has been dismissed by the impugned order. Being aggrieved the petitioners are before this Court.

I have heard learned counsel for the parties and I have perused the records.

The only issue that has been raised by the petitioner to question the election of respondent no. 7 to the post of Chairman of the Society is that he is not a permanent resident of the operational area of the society and thus not entitled to be either a member of the society or to contest the election. There are other grounds as well which has been raised by the petitioners to question the election like infirmity in the voter list. In so far as the issue of membership of the respondent no. 7 is concerned, a perusal of the impugned order manifest that at no stage of the election or even prior thereto did the petitioners raise any issue on the membership of the respondent no. 7 or the illegality therein. The waiver does not stop here. Even when the voter list was

published, no objection was raised by the petitioners regarding inclusion of the name of the respondent no. 7 in the voter list. Even at the stage of filing of the nomination, no such objection has been raised by the petitioners on the filing of nomination by the respondent no. 7.

In the circumstances discussed it is manifest that the two petitioners by way of the election dispute in fact have endeavored to raise a membership issue which cannot be a subject matter of an election dispute for so long as the person continues to be a member of the Society he is within his rights to contest the election.

In the circumstances no infirmity can be found in the opinion expressed by the prescribed authority to dismiss the election petition.

This writ petition is accordingly dismissed.

(Jyoti Saran, J)

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