

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.774 of 2016

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Prem Kumar Sah, son of Late Bindeshwari Prasad Sah, Resident of Village-
Pipra, P.O. Pipra, P.S. Banmankhi, District- Purnea.

.... Petitioner/s

Versus

1. The State Election Commission (Panchayat) through the State Election Commissioner, Sone Bhawan, Birchand Patel Path, Patna.
2. The State Election Commissioner, the State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
3. The District Election Officer (Panchayat), Purnea, District- Purnea.
4. The Returning Officer (Panchayat), Banmankhi Block, District Purnea.
5. Sri Girendra Kumar Mandal, son of Late Kanak Lal Mandal, Resident of village- Pipra, P.O. Pipra, P.S. Banmankhi, District- Purnea.
6. Sri Aftab Alam, son of Md. Nazrul Hasan, Resident of Village- Bela Badan, P.O. Pipra, P.S. Banmankhi, District- Purnea.
7. Sri Chandra Bhushan Chand, son of Sri Raghunanadan Yadav, Resident of Village- Pipra, P.O. Pipra, P.S. Banmankhi, District- Purnea.
8. Sri Chhedi Lal Rishideo, son of Late Gonar Rishideo, Resident of Village- Pipra, P.O. Pipra, P.S. Banmankhi, District- Purnea.
9. Smt. Rubi Kumari, wife of Sri Chandra Bhushan Chand, Resident of Village- Pipra, P.O. Pipra, P.S. Banmankhi, District- Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Manglam Ms. Anita Kumari
For the Respondent-SEC	:	Mr. Amit Shrivastava Mr. Girish Pandey
For the Respondent No.5	:	Mr. Vikram Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 01-02-2016 Heard Mr. S.B.K. Manglam, learned counsel

appearing for the petitioner, counsel for the State, counsel for the State Election Commission and Mr. Vikram Singh, learned counsel appearing for the respondent no.5 who is the returned candidate and whose election is put to challenge by the petitioner before the Munsif –cum- Election Tribunal, Purnea in

Election Petition No.13 of 2011.

The limited relief prayed by the petitioner in this writ petition is to direct the Election Tribunal at Purnea to expeditiously dispose of the election case as the tenure of the returned candidate is practically coming to an end in less than six months.

Perusal of the records manifests that this petitioner had come before this Court raising similar grievance in CWJC No.10555 of 2012 and a Bench of this Court upon examination of the issues raised which questioned an order passed by the Election Tribunal rejecting the petition of the petitioner under Order 12 rule 6 of the Code of Civil Procedure on the issue of inspection, vide order dated 11.7.2013 disposed of the writ petition with a direction to the Election Tribunal to conclude the election case expeditiously and preferably within a period of three months from the date of the order, a copy of which is placed at Annexure-7. The returned candidate i.e. respondent no.5 questioned the order of the learned Single Judge before the Division Bench in LPA No.1123 of 2013 and vide order dated 13.9.2013 placed at Annexure-8 the Division Bench while partially modifying the order of the learned Single Judge directed the Election Tribunal –cum- Munsif concerned to

dispose of the matter expeditiously while observing that the controversy has boiled down to a single issue.

It is unfortunate that even when the matter was finally disposed of by this Court on 13.9.2013 and a period of more than two years has passed but the order of this Court has not been carried out by the court below. This is very serious. Once a time frame has been fixed then the court below was duty bound to abide by the same. The learned Single Judge had given three months' time for the conclusion of the election case and the Division Bench did not interfere therewith. Somewhere even the petitioner is also to be blamed for not approaching this Court at appropriate time and the delay caused is such that the tenure of the Panchayat is practically coming to an end.

Following the order of this Court passed in the present writ petition that a report has been forwarded by the Election Tribunal –cum- Munsif, Banmankhi who shifts the blame on the opposite parties when it is his duty to ensure that the case should have been concluded expeditiously and not rendered infructuous by the delaying tactics of the opposite parties, who would deliberately cause delay. The Presiding Officer has mentioned that he is in seisin of the matter since 30.7.2015 and thus there cannot be any explanation for not concluding the matter in the

next six months.

That it has been mentioned in the report that the matter is running for argument, it is expected that the Election Tribunal –cum- Munsif, Banmankhi, Purnea shall ensure its conclusion without any delay and without granting any adjournment to any of the parties and in case any of the parties is trying to delay the matter the same be recorded in the order-sheet and the matter should proceed and be concluded within the time frame so mentioned in the report of the Election Tribunal - cum- Munsif, Banmankhi.

The writ petition is disposed of.

(Jyoti Saran, J)

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