

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7245 of 2016

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1. Baso Devi @ Vaso Devi, wife of Sri Jitan Prasad, resident of village-Pipra Ghat, P.S. Kanhauli, District-Sitamarhi
 2. Khaitun Khatun @ Khaitun Khatoon, wife of Md. Aslam Safi, resident of village-Bagha, P.S. Kanhauli, District-Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna
3. The State Election Commission through its Secretary, Sone Bhawan, Birchand Patel Path, Patna
4. The District Magistrate, Sitamarhi-cum-District Election Officer (Panchayat), Sitarmhari
5. The District Panchayati Raj Officer, Sitamarhi
6. The Block Development Officer, Sonbarsa, District-Sitamarhi

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Manish Kumar No 13, Advocate

For the Respondent/s : Mr. Kinkar Kumar, SC-27

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

3 26-04-2016 Heard Mr. Manish Kumar No. 13 for the petitioners, counsel for the State and Mr. Amit Shrivastava for the State Election Commission.

The petitioners are aggrieved by the portion of the order issued by the State Election Commission dated 06.4.2016, a copy of which is present at Annexure-4 whereby the categorization for territorial constituency nos. 1, 2 and 3 for Panchayat Samiti, Sonbarsa in the District of Sitamarhi has been altered and as a consequences the nominations filed by the intending candidates



has been cancelled. Although the letter which is dated 06.4.2016 also provides for individual notice be given to the candidates who had filed their nomination but the petitioners herein submitted that they have received no such intimation.

When this matter was last taken up yesterday it was submitted by Mr. Amit Shrivastava appearing for the Commission that the alteration in the territorial constituency would not act prejudice to the claim of the petitioners because despite the alteration the alternatives would yet be available.

Mr. Manish Kumar with reference to the categorization of the territorial constituency made for Panchayat Samiti, Sonbarsa vide Form-5 enclosed at Annexure-2 has submitted that the petitioners had filed their nomination for territorial constituency no. 2 Bagaha which was unreserved for women. He also submitted that the nomination of the petitioners was accepted and even symbols allotted. It is thus submitted that due to lack of communication regarding the modified categorization of the territorial constituency preceded by cancellation of the nominations so filed in respect of territorial constituency nos. 1, 2 and 3 that the interest of the petitioners is prejudiced.

The modified categorization in respect of territorial constituency no. 1, 2 and 3 has been produced by Mr. Amit



Shrivastava today which forms a part of letter dated 05.4.2016 of the District Magistrate-cum-District Election Officer as regarding the proposed modifications and the modified list shows that whereas territorial constituency nos. 1 & 3 have remained unreserved for women, territorial constituency no. 2 is reserved for Scheduled Caste candidates. It is thus submitted by Mr. Shrivastava that the petitioners can well file their nominations for territorial constituency nos. 1 and 3.

Responding to the submissions made by Mr. Shrivastava, it is argued by Mr. Manish Kumar that in view of such belated communication, the last date may have lapsed and since the petitioners were not in the knowledge of the date so fixed for filing nomination, they could not submit their nomination in respect of the constituency now made available to them. He further submits that the election to the Panchayat Samiti is fixed for 10th May, 2016.

Having heard learned counsel for the parties and considering the admitted circumstances where the two petitioners having applied against the territorial constituency no. 2 which is unreserved for women were also allotted symbols for contesting the election and taking into consideration the decision of the State Election Commission to re-categorize the territorial constituency

nos. 1, 2 and 3 and although stipulating regarding individual notice to the intending candidates whose nomination had been accepted but not being acted upon and bearing in mind that the last date for filing nomination may have lapsed in the meanwhile for a default not attributable to the petitioners, I deem it fit and proper to direct the District Election Officer-cum-District Magistrate, Sitamarhi as well as the Election Officer-cum-Block Development Officer, Sonbarsa, District-Sitamarhi to accept the nomination of the two petitioners even if the last date for filing the said nomination has lapsed. The petitioners would present themselves along with a copy of this order on **Thursday i.e. 28.04.2016** at 11:00 A.M. along with the nomination papers for the territorial constituency as they desire which should be acted upon by the Election Officer-cum-Block Development Officer, Sonbarsa, District-Sitamarhi without any objection.

The writ petition is allowed.

(Jyoti Saran, J)

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