

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9273 of 2016

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Sharwan Paswan son of Suleshwar Paswan, resident of Village Pranbigaha,
Grampanchayat- Dedaur, P.S. Nawada, District Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The State Election Commission, through its Chairman, Bihar, Patna.
3. The Secretary, State Election Commission, Bihar, Patna.
4. The Collector-cum- District Returning Officer, District Nawada.
5. The Block Development Officer-cum- Block Returning Officer, Nawada Sadar Block, District Nawada,
6. The Assistant Returning Officer, Nawada Sadar, District Nawada.
7. Rudal Paswan son of Late Chando Paswan, resident of Village Dedaur, P.O. Akauna Bazar, P.S. Mufasil (Nawada) District Nawada.
8. Jitendra Paswan, son of Devendra Paswan, Village Dedaur, P.S. Mufassil (Nawada), District Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. M. P. Bharti with Mr. Manish Prakash, Advocates
For the State	:	Mr. Ram Babu Rai, AC to SC 14
For the SEC	:	Mr. Amit Shrivastava with Mr. Sanjeev Nikesh, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 21-08-2017

Heard learned counsel for the petitioner, State and State
Election Commission.

2. Though notice has been validly served on learned
counsel for the respondents no. 7 and 8, there was no representation
on their behalf today when the case was called out and heard.



3. Counter affidavit has been filed on behalf of respondents no. 2 and 3 in terms of order dated 26.06.2016.

4. Learned counsel for the petitioner submitted that in view of averments made in the counter affidavit of the State Election Commission, he has nothing further to add and he adopts the same.

5. The petitioner has moved the Court for the following reliefs:

“ That by this writ application the petitioner prays for setting aside the entire Election Process for the post of Panchayat Member (Ward Member) of Ward No. 4 of Dedaur Gram Panchayat under Nawada Block in the District of Nawada as out of three candidates one Jitendra Paswan who had withdrawn his candidature on 11.04.2016 (that was the date of withdraws) even his name appeared upon the ballot papers and upon the ballot papers wrong symbols and name have been incorporated of the petitioner as the petitioner had allotted symbol of Almirah but in the ballot against the name of petitioner, instead of Almirah, Axe (Kulhari) was given there, hence entire election process for the post of ward member of ward no. 4 has become null and void and it is fit to be cancelled and a direction be issued for fresh election of that post.

The petitioner further prays for initiating a Criminal as well as departmental



*proceeding against the Collector (respondent no. 4) as well as Block Development Officer-cum-Block returning Officer, (respondent no. 5) who had done this misdeeds knowingly and deliberately, hence they have committed gross misconduct and dereliction of Officials duty as this petitioner had already informed the collector as well as the Block Returning Officer, upon which they visited at the spot/booth but did not taken any legal step and continued the Election voting and ultimately published the result saying this petitioner **“TUMKO JAHAN JANA HAI JAO AUR JO KARNA HAI KARO”**.*

6. After some arguments, learned counsel for the petitioner submitted that he be permitted to withdraw the writ application with liberty to move before the Prescribed Authority under the Bihar Panchayat Raj Act, 2006 in a duly constituted Election Petition assailing the election of respondent no. 7 as Ward Member from Ward No. 4 of Dedaur Gram Panchayat in the District of Nawada.

7. Learned counsel for the official respondents took a stand that if the petitioner moves before the Prescribed Authority, the matter be left to the authority to decide.

8. In view thereof, the writ petition stands disposed off with liberty aforesaid.



9. If a petition is filed within one month from today, the same shall be disposed off on merits expeditiously.

(Ahsanuddin Amanullah, J)

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