IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.622 of 2017
IN
Civil Writ Jurisdiction Case No. 4270 of 2017

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1. Hira Prasad Singh, Son of Yogendra Narain Singh, Resident of village and P.O. Nirpur, Police Station Dhamdaha, District - Purnea
2. Dr. Shiv Narayan Yadav, Son of Late Ram Lal Singh Yadav, resident of village - Madho Nagar, Police Station Bhawanipur, District - Purnea
3. Ram Chandra Prasad Singh, Son of Asharfi Prasad Singh, resident of village - Dhangadha, P.O. Simarbani, Police Station - Bhargama, District - Araria

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Co - Operative Department, Government of Bihar, Patna
3. The Registrar, Co - Operative Societies, Bihar, Patna
4. The Joint Registrar, Co - Operative Societies, Purnea Division, Purnea
5. District Co - Operative Officer, Araria, District - Araria
6. The Managing Director, District Central Co - Operative Bank Ltd. Purnea
7. The State Election Authority, Bihar, Patna through the Secretary
8. Ali Reza, Son of Md. Sharif Hussain, Resident of village and P.O. Gaiyari, Police Station - Araria, District - Araria (Presently Chairman of District Central Co - Operative Bank Ltd. Purnea)

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Kundan Kumar Sinha, Advocate
Mr. Aditya Nr. Singh, Advocate
For the Respondent/s : Mr. Raj Ballabh Prasad Yadav- AAG-11
Mr. A.K. Dubey, AC to AAG-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 24-04-2017

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Seeking exception to an order dated 30th of March, 2017, passed by the learned Writ Court in C.W.J.C. No.4270 of 2017, this appeal has been filed under Clause 10 of the Letters Patent.

2. On hearing learned counsel for the parties at length, we find that the order in question is only an interlocutory order granting certain interim relief to the respondent, petitioner in the original writ petition. The writ petition is directed to be listed for final hearing in the week commencing 18th of April, 2017 and we are informed that it is already in the list and continues to be in the list for hearing.

3. That being so, the moot question is as to whether at this interlocutory stage, when only some interlocutory relief is granted and main petition is pending final hearing, interference should be made in the matter.

4. Learned counsel for the appellant invites our attention to the following judgments- (2005) 9 SCC 733, State of U.P. & Ors. vs. Ram Sukhi Devi, and (2009) 16 SCC 243, Vivek Re-rolling Mills and Ors. vs. Collector of Central Excise, to say that relief in the nature of final relief at an interim stage should not be granted and, therefore, the interim order passed granting stay to the petitioner, respondent herein, should be interfered with.

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5. We find that the original petitioner Shri Ali Reza, respondent herein, was elected as Chairman of the Managing Committee of Purnea District Central Cooperative Bank Limited. After his election as Chairman, certain election petitions were filed and the Election Tribunal is seen to have dismissed the election petitions. However, in a review proceeding held, the Registrar, Cooperative Societies, having interfered and declared the election as illegal, the writ petition was filed and the writ petition is pending consideration before the Court for final hearing. However, after considering various preliminary objections raised by the present appellant and finding the act of the Registrar in declaring the election as null and void, a detailed order has been passed and finding a prima facie case in favour of the petitioner, his election has been protected.

6. In our considered view, at this stage, in the facts and circumstances of the present case, no interference into the matter is called for, particularly when the matter is already listed for final hearing and is pending consideration before the learned Writ Court.

7. That being so, we request the learned Writ Court to take up the matter for hearing at an early date and dispose of the same in accordance with law. As far as the findings recorded by the learned Writ Court are concerned, they are prima facie findings only

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for considering the question of granting interim stay. They are not final in nature and the petitioner can always raise the grounds before the writ Court where the matter is pending.

8. Accordingly, finding no case for interference at this interim stage, in the peculiar facts and circumstances of the case, we dispose of the matter.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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