

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5652 of 2017

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Jamila, wife of Shalim Mansuri, Resident of Village- Kharihara, P.S.- Barahat,
District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, State of Bihar, Patna.
2. Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. Joint Secretary, General Administration Department, Government of Bihar, Patna.
4. State Election Commissioner, State Election Commission, Bihar, Patna.
5. Deputy Secretary, State Election Commission, Bihar, Patna.
6. District Magistrate cum District Election Officer (Panchayat), Banka.
7. Sub Divisional Officer, cum Returning Officer, Banka.
8. Block Development Officer, cum Block Returning Officer, Barahat, Banka.
9. Circle Officer, Shahkund, District- Bhagalpur.
10. Kiswari, wife of Irshad, resident of Village- Bharihara, P.S.- Barahat, District- Banka. at present Mukhiya of Kharihara Panchayat, Barahat Block, District- Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Singh and Mr. Rajiv Kumar Singh, Advocates
For the State Election	:	Mr. Amit Shrivastava and Mr. Girish Pandey, Advocate
For the State	:	Mr. Dr. Mankeshwar Tiwari, A.C. to A.A.G.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 16-08-2017

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

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

*“i) Issuance of an appropriate writ
including a writ in the nature of writ of
certiorari quashing Gyapank 521, Patna dated
27.02.2017 passed in case no. 43/2016
(Annexure-7) by the State Election*



Commissioner, State Election Commission, Bihar Patna (Respondent no. 2) and also quashing the order dated 23.09.2016 (Respondent No. 5) passed by the District Magistrate cum District Returning Officer (Panchayat) Banka.

ii) Issuance of an appropriate writ including in a writ in the nature of writ of mandamus commanding the respondents to remove respondent no. 9 from the post of Mukhiya, Khaihara Panchayat Barahat Block, Banka immediately because she was elected on the said post on the basis of forged Caste Certificate while she belongs to the Caste of Sheikh.

iii) Issuance of any other appropriate writ(s) order(s) direction(s) as may be deemed fit and proper in the facts and circumstances of the case.”

3. In sum and substance, the petitioner is aggrieved by rejection of her complaint that the respondent no. 10, who is the elected *Mukhiya* of Gram Panchayat Kharihara in Block- Barahat of District Banka is an EBC being ‘*Sheikh*’ and not ‘*Mukeri*’. The matter was enquired into by the District Magistrate who came to the conclusion that the petitioner was also ‘*Mukeri*’ and on such report, the complaint of the petitioner has been rejected by the State Election Commission.

4. Learned counsel for the petitioner submitted that the grandfather of the petitioner has been shown to belong to ‘*Sheikh*’ caste and once the revenue records disclosed such caste, the authorities had to rely on the same and could not have gone for a



spot/field verification, which they have done, to hold that the petitioner belonged to '*Mukeri*' caste. Learned counsel submitted that for correction of such revenue records, they had also moved before the District authorities which have held that only the Court of Competent Jurisdiction can make the necessary correction. It was submitted that once there are revenue records to show that the petitioner belonged to '*Sheikh*' caste, there was no further requirement of any enquiry and the caste certificate showing '*Mukeri*' was required to be cancelled and the election of the petitioner to be held as void.

5. Learned counsel for the State Election Commission submitted that the law provides for holding enquiry with regard to the revenue records as well as land related documents and other connected documents. It was submitted that in the present case, though Cadastral Survey shows the grandfather of the petitioner to belong to '*Sheikh*' caste, but in the Revisional Survey of the year 1975, with regard to the uncle of the petitioner, no caste was written and only it was written '*Musalman*', which is not a caste. It was submitted that under such circumstances, the Circle Officer held a field/ spot enquiry and on the basis of the unanimous stand of all the villagers that the respondents belonged to '*Mukeri*' caste, it was held that the petitioner also belongs to '*Mukeri*' caste. It was



submitted that there is no violation of the procedure prescribed since there were two revenue entries, one showing that the grandfather belonged to ‘*Sheikh*’ caste whereas the other did not show any caste and under such circumstances, local/spot/field enquiry having been held, cannot be faulted.

6. Having considered the matter, the Court is in agreement with the submissions of learned counsel for the State Election Commission. Once there is a controversy on the basis of revenue records itself, which do not clearly show the caste of the petitioner, any spot/local/field verification or enquiry was the only procedure available, which has been followed.

7. Under the circumstances, the Court does not find any merit in the writ petition and accordingly, the same stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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