IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6431 of 2017

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Mohammad Ali, Son of Gulam Murtaza, Resident of Mohalla- Zakki Shahid, P.O. Sasaram, P.S.- Sasaram Town, District- Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commissioner, the State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna.
3. The Secretary, the State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna.
4. The District Election Officer (Municipality)-cum- District Magistrate, Rohtas at Sasaram, District- Rohtas at Sasaram.
5. The Sub-Divisional Officer, Sasaram-cum-Returning Officer, Municipal Election, Sasaram Nagar Parishad, District- Rohtas at Sasaram.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. S. B. K. Mangalam, Advocate
For the SEC : Mr. Amit Shrivastava and
Mr. Sanjeev Nikesh, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 10-05-2017

Heard Mr. S.B.K. Mangalam, learned counsel for the petitioner and Mr. Amit Shrivastava, learned counsel along with Mr. Sanjeev Nikesh, learned counsel for the State Election Commission.

2. The petitioner has moved the Court for a direction to the respondents to reallocate Booths No. 1, 2 and 3 for Ward No. 28 for the ensuing election to the Sasaram Nagar Parishad.

3. Learned counsel for the petitioner submitted that previously the said Booths were located at Government Special Urdu Girls Middle School, Sulemanganj, Mugalpura but recently, since the said school was located near a slaughter house, it is now running

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from the premises of Upgraded Urdu Middle School, Shah Jalalpir situated in Ward No. 24. He submitted that though on paper, the Booths are at the same place but because of the physical relocation of the school itself, now instead of the Booths remaining in Ward No. 28, it has shifted to Ward No. 24. He submitted that a new community hall has already been constructed within the geographical location of Ward No. 28 and the said Booths can very well be located in such newly constructed community hall, which is also permissible and preferred in the guidelines issued by the State Election Commission itself.

4. Learned counsel for the State Election Commission submitted that the choice and location of the Booth, being a purely administrative matter, should not be casually interfered by the Court and it is best left to the discretion of the authority responsible for the same as many factors are to be taken into account.

5. Having considered the matter, the Court feels that allocation of the Booth in the present case is more inadvertent for the reason that the name of the school is same and thus, the authorities may have been unmindful of the fact that the school has now been relocated to a different Ward. Thus, if there is a space available, which is preferred in terms of the guidelines of the State Election Commission, in Ward No. 28 itself, Booths No. 1, 2 and 3 of Ward No. 28 can very well be located at such place. However, for the

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present, this Court would not directly give a direction for such change and would leave the matter for consideration of the authorities concerned.

6. Accordingly, the writ petition stands disposed off with a direction to the respondents no. 4 and 5 to take a call with regard to the objection filed by the petitioner relating to relocation of Booths No. 1, 2 and 3 of Ward No. 28, to either the newly constructed community hall or any other location within the geographical boundary of Ward No. 28, as per the guidelines issued by the State Election Commission with regard to the location of Booths and in the light of discussions made hereinabove. It goes without saying that ultimately the decision has to be approved by the State Election Commission.

7. To facilitate matters, let the petitioner serve a copy of the order on respondents no. 3, 4 and 5 within two working days from today.

(Ahsanuddin Amanullah, J.)

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