

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.848 of 2017

IN

Civil Writ Jurisdiction Case No. 6931 of 2017

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Fatma Khatoon @ Fatma Khatun, Wife of Akhyar Ahmed, Resident of Village-
Lohar Toli, Ward No. 20, P.S. Sherghati, District- Gaya.

.... Appellant

Versus

1. The State of Bihar through Principal Secretary, Nagar Vikash Avam Awash Bibhag, Bihar, Patna.
2. The State Election Commission Bihar, Patna through its Secretary.
3. The Secretary, Nagar Vikash Avam Awash Bibhag, Bihar, Patna.
4. The District Magistrate-cum- District Election Officer (Nagarpalika), Gaya, District- Gaya.
5. The Election Officer Nagar Panchayat Sherghati-cum-Sub- Divisional Officer, Sherghati, Gaya, District- Gaya.
6. Sakil Khan, Son of Late Mahaphuj Khan, Resident of Village- Lohartoli, Ward No. 20, P.S. Sherghati, District- Gaya.

.... Respondents

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Appearance :

For the Appellant/s	:	Mr. Sharda Nand Mishra, Advocate.
For the Respondent/s	:	Mr. Rakesh Ambastha, Ac to AAG-7
For State Election Commission :		Mr. Amit Shrivastava, Advocate.
		Mr. Girish Pandey, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-05-2017

In the matter of rejection of nomination paper of the petitioner in an illegal manner for contesting the Ward Counsellor Election, at this stage, when the process of election is in progress, no indulgence can be made on a petition under Article 226. The question of illegally rejection of the nomination paper can only be challenged, now by the petitioner by way of an election petition, as laid down by



the Supreme Court *in the case of M.S. Gill & Anr Vs. The Chief Election Commissioner, reported in 1978 (1) SCC 405*. Once the process of election has commenced, a Writ court cannot interfere in the matter. The jurisdiction exclusively vests with the Election Tribunal, who is empowered to deal with the matter after the elections are over. That is the law laid down in the case of *M.S. Gill & Anr Vs. The Chief Election Commissioner, reported in 1978 (1) SCC 405*.

In view thereof, this appeal is dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Amit/-

AFR/NAFR	NAFR
CAV DATE	NA
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