

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1523 of 2017

Along with

Civil Writ Jurisdiction Case No. 6870 of 2017

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Sobha Devi, W/o Shri Jagdish Bhagat @ Shri Jagdish Prasad Bhagat, Resident of Ward No. 13, Nagar Panchayat- Amarpur, Mohalla-Hatt Road, P.O.+ P.S.- Amarpur, District-Banka.

.... Petitioner/s

Versus

1. Sri Chaitanya Prasad, the Principal Secretary, Department of Urban and Housing, Government of Bihar, Patna.
2. Dr. Nilesh Dewray, the District Magistrate-cum-District Election Officer (Municipality), Banka.
3. Sri Niraj Kumar, the Returning Officer-cum-Senior Deputy Collector, Nagar Panchayat, Amarpur, Banka
4. Sri Satendra Prasad Verma, the Executive Officer, Nagar Panchayat, Amarpur, Banka.
5. Sri Rakesh Kumar, the Block Development Officer-cum-Assistant Returning Officer, Nagar Panchayat, Amarpur, Banka.
6. The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prahalad Kr. Bhagat, Advocate

For the Respondent/s : Mr. Y. P. Sinha, AAG- 7

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-05-2017

Heard learned counsel for the petitioner and learned
AAG-7 for the State.

2. The present application has been filed alleging
wilful disobedience of the order dated 10.05.2017 passed in C.W.J.C.
No. 6870 of 2017, by which the opposite party no. 2 was directed to



verify as to whether the Returning Officer had endorsed on the nomination paper of the petitioner with regard to acceptance of his nomination paper and if the same was found to be true, the consequences were to follow and the nomination paper of the petitioner would be held to be duly accepted and she shall be allowed to contest in the election. Such verification had to be done within two working days.

3. Learned counsel for the petitioner had alleged that despite the order having been served on the opposite party no. 2 on 13.05.2017, despite two working days having elapsed, the exercise directed had not been completed.

4. The matter was mentioned by learned counsel for the petitioner yesterday and the Court had called upon the learned State counsel to inform, after taking instructions from the opposite party no. 2 as to whether the order had been complied. Learned State counsel had informed the Court that the order had been passed and copy would be supplied to the petitioner by the evening. The matter was thus, directed to be listed today.

5. Today, learned counsel for the State submitted that copy of the order has been served. Though from the circumstances, it appears that if the order had been passed by the opposite party no. 2, it would not have conveyed to the Court that copy of the order shall



be served on the petitioner after 4-5 hours, since had the order been already passed, copy could have been served without wasting any time. Moreover, learned counsel for the State has produced copy of the order, which is dated 17.05.2017, which is also beyond the time fixed for passing of the order. The Court being conscious of the urgency of the matter, as it related to rejection of the nomination of a person, had fixed the time limit which was to be complied with mandatorily by the opposite party no. 2 and in which he had no discretion. Further, the exercise was limited only to verification from the records and not any other enquiry. If the opposite party no. 2 has still not found two working days to be enough, the Court can only infer that he had no intention to comply with the order of the Court in time, which makes such conduct deliberate and wilful. The same would thus, entail appropriate orders.

6. At this stage, learned counsel for the State tendered unconditional and unqualified apology on behalf of the opposite party no. 2. In view thereof, the Court does not propose to proceed against the opposite party no. 2 in the matter of contempt and accordingly, the issue stands consigned and the application stands disposed off.

7. However, the opposite party no. 2, is cautioned to be careful in future with regard to compliance of the orders of the Court.



8. Learned counsel for the State shall communicate the order to the opposite party no. 2.

(Ahsanuddin Amanullah, J)

P. Kumar

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