

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10976 of 2016

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Mamta Kumari Wife of Amit Kumar, Resident of Village- Asthawan, P.O. and P.S. Asthawan, District- Nalanda at Biharsharif.

.... Petitioner/s

Versus

1. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commissioner, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
3. The Secretary, The State Election Commission (Panchayat), Sone Bhawan, Birchand, Patel Path, Patna.
4. The District Magistrate-cum-District Election Officer (Panchayat), Nalanda at Biharsharif, District - Nalanda at Biharsharif.
5. The Block Development Officer, Asthawan, District - Nalanda at Biharsharif.
6. Ladli Sinha, Wife of Vijay Kumar, Resident of Village- Asthawan, P.O. and P.S. Asthawan, District - Nalanda at Biharsharif.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S. B. K. Mangalam, Advocate
For the SEC	:	Mr. Amit Shrivastava with
		Mr. Girish Pandey, Advocates
For the State	:	Mr. S. Rahman, AC to GP 24

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 11-09-2017

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

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

*“ (I) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the order*



dated 06.06.2016 passed by the Respondent no. 2 and communicated to the petitioner under letter no. 5062 dated 06.06.2016 issued under the signature of Respondent no. 3 whereby and where under the Respondent no. 2 has been pleased to direct the Respondent no. 4 to reject all such votes of booth no. 78 of Gram Panchayat Raj, Asthawan under Asthawan Block of Nalanda District on the ground that they do not bear booth seal and signature of the Presiding Officer on the back of the ballot paper.

(II) For a declaration that if law does not contemplate for rejection of a ballot paper merely because it does not bear the signature of the Presiding Officer and proviso of Rule 75(1) (d) of the Bihar Panchayat Election Rules, 2006 ordnance that before taking any decision of such ballot paper, the Returning Officer has to satisfy himself about the manner in which those votes were polled, the State Election Commissioner was sitting in his chamber cannot decide the fate of those ballot papers and since it has been done by him, the order passed by the Respondent no. 2 and communicated by the Respondent no. 3 is without jurisdiction.

*(III) For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent Authorities for declaring those ballot papers of booth no. 78 as valid votes which has been declared invalid because of impugned order passed by the Respondent no. 2 and thereafter*



to declare the result of election afresh accordingly after counting those ballot papers in favour of those candidates for whom they carry the vote.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. At the very outset, learned counsel for the petitioner fairly stated before the Court that she has also moved before the concerned Munsif, Bihar Sharif in Election Petition No. 02 of 2016. He submitted that in the said proceeding, the respondents have not only appeared but the evidence of the petitioner has concluded and evidence is going on of the returned candidate i.e., the respondent no. 6. He prayed that the writ petition be disposed off with a direction to the authority/forum where the election petition is pending to decide the same expeditiously.

4. Learned counsel for the official respondents do not oppose.

5. In view of the fact that election petitions are required to be disposed off expeditiously, as in law, a person who may not be entitled to hold the post, should not be allowed to hold the same, the Court is inclined to dispose off the writ petition with a direction to the concerned Munsif, Bihar Sharif where Election Petition No. 02 of



2016 is pending to dispose off the case, in accordance with law, expeditiously and in any case within a period of 10 weeks from the date of production of a copy of this order before him.

(Ahsanuddin Amanullah, J)

Anjani/-

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