

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10323 of 2016

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Murtuza Alam S/o Abdul Sattar Resident of village - Vavuan @ Babuan, P.O. Ghurna, P.S. Ghurna, Block - Narpatganj, District - Araria, Pin Code 854336.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Panchayati Raj Department, Government of Bihar, Patna
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
3. The Chief Election Commission, Bihar State Election Commission (Panchayat) Patna
4. The District Magistrate, Araria
5. The District Panchayati Raj Officer, Araria
6. The Block Development Officer, Narpatganj
7. Imajuddin Mian @ Imazuddin S/o Late Islam Mian So Called resident of village - Babuan, P.O. Basmatia, P.S. Ghurna, District - Araria

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shabhir Ahmed, Advocate Mr. Shambhu Sharan Singh
For the State	:	Mr. Shilpi Kishri, AC to AAG-10
For the State Election Commission	:	Mr. Amit Shrivastava, Advocate Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 07-09-2017

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

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

“(i) For direction/directions, order/orders to the Principal Secretary Government of Bihar to enquire into the candidature of return candidate Imazuddin Mian @ Imazuddin who has Dual Citizenship of Nepal country as permanent resident being Imazuddin Mian S/o Late Islam Mian Ga. Vi. S./ii. P.O., Sripur, Jabdi Ward no. 8 village/Tola-



Yudhganj concerning polling booth situated at Madarsa Miftahul Uloom, Sripur, District-Sunsari, Nepal and the same time at Gram Panchayat Babuan under the District of Araria, Bihar, Patna.

(ii) For declaration of candidature and Certificate of the return candidate Imajuddin obtained fraudulently is null and void for the ends of Justice in the matter.

(iii) For the other relief/reliefs as your Lordships may deem fit and proper.”

3. At the very outset, learned counsel for the State Election Commission submitted that the issue of the State Election Commission not having jurisdiction in the matter of deciding the citizenship of a person stands settled by a Division Bench of this Court in the case of **Dhanwanti Devi vs. State Election Commission** reported as **2012(1) PLJR 296**.

4. However, he submitted that the said order is sub judice before the Hon'ble Supreme Court in SLP (C) No. 010473-010474/2012.

5. Having considered the matter, this Court finds that no order is required to be passed in the present petition in view of the aforesaid Division Bench judgment of this Court in the case of **Dhanwanti Devi** (supra) of which I was a member.

6. The petitioner is at liberty to first get a declaration with regard to the citizenship of respondent no. 5 from the appropriate authority, as the State Election Commission has no power or



jurisdiction to decide the question of citizenship, which is governed by a particular field, and then move before the appropriate forum, in accordance with law.

7. With the aforesaid observations, the writ petition stands disposed off.

(Ahsanuddin Amanullah, J)

P. Kumar

AFR/NAFR	
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