

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18992 of 2016

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Sanjiv Kumar, Son of Sri Arjun Prasad, Resident of 2D/180, New Patliputra Colony, P.O. and P.S. Patliputra, District- Patna, Presently Ward Councilor from Ward No. 22, Patna Municipal Corporation, Patna.

.... Petitioner/s

Versus

1. The State Election Commission (Municipality), Sone Bhawan, Bir Chand Patel Bihar, Patna through the State Election Commissioner.
2. The State Election Commissioner, the State Election Commission (Municipality), Sone Bhawan, Bir Chand Patel Bihar, Patna.
3. The Secretary, the State Election Commission (Municipality), Sone Bhawan, Bir Chand Patel Bihar, Patna.
4. The Deputy Secretary, the State Election Commission (Municipality), Sone Bhawan, Bir Chand Patel, Bihar, Patna.
5. The District Magistrate-cum-District Election Officer (Municipality), Patna, District- Patna.
6. The Sub-Divisional Officer, Patna Sadar, District- Patna.
7. The Patna Municipal Corporation through the Municipal Commissioner, District- Patna.
8. The Municipal Secretary, Patna Municipal Corporation, District- Patna.
9. The Executive Officer, New Capital Circle, Patna Municipal Corporation, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S. B. K. Mangalam, Advocate
For the State	:	Mr. Rajiv Roy, G.P. 1
For the SEC	:	Mr. Amit Shrivastava and Mr. Sanjeev Nikesh, Advocates
For the PMC	:	Mr. Prasoon Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 13-01-2017



Heard learned counsel for the parties.

The challenge in the present writ application is to the final publication of the Wards relating to 75 Wards of the Patna Municipal Corporation.

Learned counsel for the petitioner submitted that in terms of various communications made by the Patna Municipal Corporation, there is discrepancy with regard to the population shown, both in the total number as well as the break up concerning the population of the Scheduled Castes and the Scheduled Tribes, especially in Ward No. 22. He further submitted that from perusal of the publication in Form-6, it would be apparent that there is great disparity between the populations of the Wards, which makes it unreasonable. Learned counsel submitted that in one particular case relating to Bindeshwari Nagar, which formed part of Ward No. 22, prior to the present exercise where it has been shown to be part of Ward No. 22B. It was submitted that this shifting of Bindeshwari Nagar from Ward No. 22 to the newly created Ward No. 22B is impermissible in view of the decision of the State Government that no fresh delimitation will take place. He further submitted that the objections filed by the petitioner dated 11.11.2016 and 16.11.2016, have not been considered or disposed off by the authority concerned and any further action in the matter is thus vitiated in law.



Learned counsel for the respondents accepted that there were discrepancies in the figures shown in the communication of the Patna Municipal Corporation, but finally, as per the 2011 census, the correct figure for Ward No. 22, as it was existing, including five Panchayats comes to 100261 of which Scheduled Castes comprised 10352 and the Scheduled Tribes 877. It was submitted that in the aforesaid five Panchayats, the total population is 62161 of which the Scheduled Castes population is 9412 and Scheduled Tribes is 736 and, thus, the total population of Ward No. 22 would be 38100 including Scheduled Castes 940 and Scheduled Tribes 141. It was submitted that this was the authentic figure, as per the 2011 census. He further submitted that as per the previous delimitation of Wards reflected in the map prepared, Bindeshwari Nagar was never part of Ward No. 22, though certain persons had got themselves enrolled as voters for Ward No. 22 and they have also derived the benefits as such voters. It was submitted that now Bindeshwari Nagar, because of its sheer geographical location, is part of the newly created Ward No. 22B. Learned counsel submitted that initially the area of Bindeshwari Nagar was included in the aforesaid five Gram Panchayats, and thus, the census figures of the said five Gram Panchayats included the population of Bindeshwari Nagar. Learned counsel submitted that as far as consideration of the



objection of the petitioner is concerned, the time limit for filing such objection was 17.10.2016 and the petitioner had filed his objection on the very last day which has been considered by the concerned authority on 24.10.2016. It was submitted that the only objection was with regard to the population figures, which stand corrected as per the officially released figures of the 2011 census.

Learned counsel submitted that as far as the contention that there could not be any delimitation afresh, the present is not such an exercise, for the simple reason that new areas i.e., five Gram Panchayats and Patliputra area, for the first time are being brought under the Patna Municipal Corporation, which is an addition to its territory and due to which the number of Wards has been increased to the maximum limit of 75, by addition of three new Wards namely, 22A, 22B and 22C. Learned counsel submitted that perusal of the map would indicate that Bindeshwari Nagar is rightly part of Ward No. 22B as it is contiguous to the same and in any case cannot be part of 22 as it is far removed from the same on the ground. Learned counsel submitted that in the past, though some of the voters may have been enrolled, but now when the area all around Bindeshwari Nagar, which earlier was never part of the Patna Municipal Corporation, when new Wards are created for such area, obviously, and logically Bindeshwari Nagar area has been made part



of Ward No. 22B. In support of such contention, learned counsel draws the attention of the Court to the sketch map, which is on record. Learned counsel submitted that the exercise relating to there being reasonable distribution of the population cannot result in a prefect situation where the population of all the Wards is more or less equal for the simple reason that the State Government as a policy decision has decided not to go for fresh delimitation and, thus, the boundaries of the old Wards have been fixed. It was submitted that it is sheer chance that population of a Ward may increase or decrease depending on migration of the people and if the same has resulted in there being difference in the number of persons in each Ward, the same cannot be said to be illegal or in any view be a factor to vitiate the exercise undertaken. Learned counsel submitted that inclusion of Bindeshwari Nagar in Ward No. 22B would not amount to tinkering with the earlier delimitation since Bindeshwari Nagar was never part and parcel of the Patna Municipal Corporation, though some of the residents may have become voters of the Patna Municipal Corporation Ward No. 22 and may also have derived benefits as such. Learned counsel submitted that the matter having been dealt with in the manner required under the statute, the Court may not interfere.

Learned counsel for the petitioner, by way of reply submitted that the initial publication in Form-6 dated 01.10.2016,



with regard to Wards No. 22A, 22B and 22C as compared to that finally published on 19.12.2012, would indicate that all the figures relating to the total population, the population of the Scheduled Castes as well as the Scheduled Tribes have changed. He submitted that both the initial publication as well as the final publication, at the very outset, indicates that it is based on the 2011 census figures. Learned counsel submitted that when the 2011 census figures are being referred, the same could not have two different figures for the same area and, thus, for coming to the conclusion as to which is the correct one, no final document of the census has been brought on record and thus, the same, *prima facie*, indicates that there is error in the methodology adopted for such exercise, which needs to be done in accordance with the statutory requirements.

Learned counsel for the respondents, by way of clarification, submitted that the initial draft publication in Form-6 dated 01.10.2016, was for the purposes of inviting objections. Once objections have been received, the same were verified and thereafter the final publication dated 10.11.2016 has been published in the District Gazette dated 10.11.2016. Thus, it is submitted that there is no discrepancy and in fact, the authorities by such conduct have shown their *bona fide* that genuine objections were taken note of and corrections made. However, it has been categorically reiterated that



what has been finally published is as per the official 2011 census figures. It has also been brought to the notice of the Court by learned counsel appearing for the State Election Commission that the same has also been approved by the State Election Commission.

Having considered the matter, the Court does not find any merit in the present writ application. The primary objection of the petitioner which was made within time was with regard to the population figures shown, especially with regard to Bindeshwari Nagar area of Ward No. 22. Once, on record and before this Court, it has been categorically stated that what has finally been published is as per the official 2011 census, the same figures not having been denied by the petitioner have to be accepted as being correct. Further, the objection that Bindeshwari Nagar was part of Ward No. 22 and delimitation not being allowed for the present exercise, its inclusion in the freshly created Ward No. 22B, cannot be sustained, is also erroneous for the simple reason that perusal of the map relating to the geographical location of the area clearly indicates that Ward No. 22 is quite separate and away from the location of Bindeshwari Nagar and logically and reasonably would be contiguous to the newly Ward No. 22B. Thus, the inclusion of Bindeshwari Nagar in Ward No. 22B cannot be said to be fresh delimitation as it has been done perforce in view of fresh areas having been included in the Patna



Municipal Corporation and in which Bindeshwari Nagar also comes. The Court would not go into the aspect as to whether initially Bindeshwari Nagar as an area had been included in the Patna Municipal Corporation or not, for the Court finds reasonableness in the action of the respondents in including Bindeshwari Nagar in the newly created Ward No. 22B, based on its sheer location.

Thus, in the considered opinion of the Court, there cannot be said to be any statutory violation, which may warrant any interference. Rather, interference would otherwise make the proposition unreasonable, inasmuch as, when an area, which is unconnected, is made part of a Ward, which is separated on the ground by quite a distance. As far as the objection of having different figures is concerned, from the materials brought on record, once the final publication, which has also been approved by the State Election Commission, has been on the basis of a categorical stand that it is as per the official census figures of 2011, the authenticity and veracity of such figure not being denied, the Court can safely presume that as far as the figures are concerned, the one reflected in the final publication are correct and as per the 2011 census.

In view of the aforesaid, taking an overall view in the matter and also the fact that the election process has to be continued without any undue interference, the writ petition stands dismissed.



The interim order dated 2nd December, 2016 stands
vacated.

(Ahsanuddin Amanullah, J.)

P. Kumar

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