

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 19127 of 2016

=====

Karuna Kumari, Wife of Sri Amit Kumar, Resident of village - Sri Ram Bigha, P.O. P.S. and Block Gurua, District - Gaya, Presently Chairman of Zila Parishad, Gaya, District – Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate-cum-District Election Officer (Panchayat), Gaya, District – Gaya.
4. The Sub - Divisional Officer, Gaya Sadar, District – Gaya.
5. The Circle Officer, Gurua, District – Gaya.
6. The State Election Commission (Panchayat), Sone Bhawan, Bir Chand Patel, Bihar, Patna through the State Election Commissioner.
7. The State Election Commissioner, the State Election Commission (Panchayat), Sone Bhawan, Bir Chand Patel, Bihar, Patna.
8. The Deputy Secretary, the State Election Commission (Panchayat), Sone Bhawan, Bir Chand Patel, Bihar, Patna.
9. Dr. Umesh Prasad, Son of not Known to the Petitioner, Resident of village, P.O. and P.S. Banke, District – Gaya.

.... Respondent/s

With

=====

Civil Writ Jurisdiction Case No. 12160 of 2016

=====

Smt. Laxmi Devi W/o Sri Mahendra Kumar, D/o Late Manki Sao, Resident of Village- Bumer, P.O. Jaigir Barachatti, P.S.+Block- Barachatti, District- Gaya.

.... Petitioner/s

Versus



1. The State of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Bihar State Election Commission, 3rd Floor, Sone Bhawan, Bir Chand Patel Path, Patna through its Secretary.
3. The Bihar State Election Commission, 3rd Floor, Sone Bhawan, Bir Chand Patel Path, Patna through its Secretary.
4. The Deputy Secretary, Bihar State Election Commission, 3rd Floor, Sone Bhawan, Bir Chand Patel Path, Patna through its Secretary.
5. The District Magistrate-cum-Election Officer, Gaya.
6. The Sub-Divisional Officer-cum-Election Officer, Zila Parishad, Nirwachan Chhetra, Gaya.
7. Smt. Karuna Kumari, W/o Sri Amit Kumar, D/o Sri Ram Dahin Prasad, Resident of Village- Sriram Bigha, P.O.+P.S.+Block- Gurua, District- Gaya.

.... Respondent/s

=====

Appearance :

In C.W.J.C. No. 19127 of 2016

For the Petitioner/s	:	Mr. S. B. K. Mangalam, Advocate
For the State	:	Mr. Alok Kumar and Mr. Kumar Alok, Advocates
For the SEC	:	Mr. Amit Shrivastava and Mr. Girish Pandey, Advocates
For the Respondent/s	:	Mr. Dinu Kumar, Mr. Arvind Kumar Sharma, Mr. Deepak Kumar and Ms. Ritika Rani, Advocates

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 21-06-2017

Heard learned counsel for the petitioners in both the cases, learned counsel for the State and learned counsel for the State Election Commission.

2. The petitioner in C.W.J.C. No. 19127 of 2016 has prayed for the following reliefs:

“(I) For issuance of an appropriate writ in



the nature of CERTIORARI for quashing the letter dated 23.06.2016 issued by the State Election Commission under the signature of its Deputy Secretary (Respondent no. 8) and addressed to the District Magistrate-cum-District Election Officer (Panchayat), Gaya (Respondent no. 3) and contained in letter no. 5523 dated 23.06.2016, whereby and where under the direction was issued to the Respondent no. 3 to hold an enquiry about the social status of the petitioner and it was further directed that during the course of inquiry if it is found that the caste certificate produced by the petitioner for her election as a Member of Zila Parishad was not a genuine caste certificate of the caste from which the petitioner belongs then it has to be canceled and information in this regard be furnished to the State Election Commission.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 05.10.2016 passed by the Respondent no. 3 in Case No. 02 of 2016 and contained in memo no. 1934 dated 05.10.2016 whereby and where under the Respondent no. 3 has been pleased to hold that the petitioner does not belong from "Dangi" Caste for which she had obtained a caste certificate from Circle Officer which she had produced for her election as a Member of Gaya Zila Parishad and had, therefore, directed the Circle Officer, Gurua to cancel the caste certificate of "Dangi" caste issued in favour of the petitioner bearing Caste Certificate No. C/16/01068 dated 01.03.2016 on the ground that after the constitution of Caste Scrutiny Committee by the State Government as per the Direction of the Hon'ble Supreme Court in the case of Kumari Madhuri Patil, the District Magistrate-cum-District Election Officer (Panchayat), Gaya had no jurisdiction to hold enquiry and cancel the caste certificate even if he was so directed by the State Election Commission.

(III) 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. On the other hand, the petitioner in C.W.J.C. No. 12160 of 2016 has prayed for the following reliefs:

“1(A) That this is an application for calling upon the Respondent to produce the declaration of result of election of Chairman, Zila Parishad, Gaya which was held on 3rd July, 2016 and Respondent District Magistrate had declared the respondent no. 7 to be elected on 03.07.2016 as Chairman of Zila Parishad, Gaya and quash the same.

(B) The certificate of election of Chairman, Zila Parishad issued in favour of Respondent no. 7 by District Magistrate, Gaya on 3/7/2016 be also called and quash the same.

(C) Result of Respondent No. 7 as Member of Zila Parishad, Gaya from Pradeshik Nirwahan Chhetra No. 25 (Gurua) be also quashed and certificate issued by Respondent No. 6 dated 7/6/2016 be also quashed.

(D) This Hon'ble Court may be pleased to issue consequential writ as the petitioner has secured highest vote in the election of Chairman, Zila Parishad, Gaya (21 Votes) be declared elected as petitioner and Respondent No. 7 were the only contested candidates of Chairman of Zila Parishad, Gaya.

(E) This Hon'ble Court may be pleased to direct the Respondent to hold fresh election for the post of Member of Pradeshik Nirwahan Chhetra No. 25 (Gurua) of Zila Parishad, Gaya.”

4. Basically the issue is as to whether Karuna Kumari, who is the elected Chairman of the Zila Parishad, Gaya belongs to ‘Dangi’ caste or she is a ‘Kushwaha (Koeri)’, both belonging to different category. On the basis of a caste certificate showing her to be the ‘Dangi’ was elected on a post of member of the Territorial



Constituency No. 25 (Gurua) in the Zila Parishad, Gaya on the basis of caste certificate showing her to be '*Dangi*', which is an Extremely Backward Class category for which such post was reserved. Without there being any objection during the process of election, she got elected and only later when she contested for the post of Chairman of Zila Parishad, Gaya and was elected, Dr. Umesh Prasad filed a complaint before the State Election Commission that she actually belonged to caste '*Kushwaha (Koeri)*' which is a Backward Class and not an Extremely Backward Class. The State Election Commission sent the matter to the District Magistrate, Gaya for holding an enquiry. Pursuant to the same, after hearing the parties, the District Magistrate has come to the conclusion that Karuna Kumari belonged to '*Kushwaha (Koeri)*' caste and thus, her certificate of '*Dangi*' caste has been cancelled. It was further ordered to lodge an F.I.R. against her for having obtained such certificate by fraudulent means. Karuna Kumari being aggrieved has moved the Court in C.W.J.C. No. 19127 of 2016. Smt. Laxmi Devi filed C.W.J.C. No. 12160 of 2016 for a direction that Karuna Kumari may not be allowed to function as the Chairman of Zila Parishad, Gaya in view of her caste certificate having been cancelled.

5. At the very outset, attention of the Court was drawn to an order passed by a Division Bench of this Court in **L.P.A. No.**



703 of 2017 in the case of **Shri Devi vs. The State of Bihar and another** dated 08.05.2017, in which the Court has observed that though the decision of the writ Court refusing to interfere in the matter being based on a finding of fact recorded in an enquiry conducted needed no interference, but there was an observation that the petitioner was free to move before the Caste Scrutiny Committee which has been constituted in terms of the order of the Hon'ble Supreme Court in the case of **Kumari Madhuri Patil vs. The Additional Commissioner Tribal Development and others** reported as **(1994) 6 SCC 241**. He further referred to the observation of the Division Bench where it was indicated that in case a favourable decision is taken by the Caste Scrutiny Committee, the petitioner shall have the liberty to approach the State Election Commission for reconsideration. He prays that the case be disposed off in the aforementioned terms.

6. Responding to the submissions of learned counsel for the petitioner, learned counsel for the State as well as respondents agree to such proposition.

7. In view thereof, the writ petition stands disposed off with liberty to Karuna Kumari to approach the aforesaid Caste Scrutiny Committee with regard to getting a declaration relating to her caste. It goes without saying that in case a favourable decision is



taken by the Caste Scrutiny Committee, Karuna Kumari shall be at liberty to approach the State Election Commission for reconsideration, if so required.

8. The interim order dated 22.02.2017 restraining the State Election Commission from passing final order stands vacated.

9. It goes without saying that Smt. Laxmi Devi and Dr. Umesh Prasad shall also be heard by the Caste Scrutiny Committee in the matter, if they so desire.

10. The Caste Scrutiny Committee shall be mindful that the matter is not kept pending for long and there should be short dates fixed without undue indulgence or time given to either of the parties so that preferably the matter can be decided within four weeks.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	

