

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.816 of 2017

arising out of

Civil Writ Jurisdiction Case No.16907 of 2016

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Smt. Tara Devi @ Tara Devi, wife of Jugal Kishore Bind, Resident of Village
- Mahkola, P.O. - Teghra, P.S. - Haveli Kharagpur, District - Munger.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna.
2. The State Election Commission through the Deputy Secretary, Govt. of Bihar, Patna.
3. The District Magistrate cum District Election Officer (Panchayat Election), Munger.
4. The Returning Officer cum Circle Officer, Anohal, Haveli Kharagpur, District - Munger.
5. The Block Development Officer, Haveli Kharagpur Block, District - Munger.
6. Anita Devi wife of Gopal Bind R/o Village - Mahkola, P.S. - Teghra, P.S. - Haveli Kharagpur, District - Munger.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Madhurendra Kumar, Advocate
Mr. Avinash, Advocate

For the State : Mr. Manish Kumar, AC to AAG -6

For the State Election Commission : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 19-12-2017 Having heard learned counsel for the parties and on
considering the following findings recorded by the learned Writ



Court in para 5 of the order which reads as under:-

“5. Having considered the rival contentions, the Court does not find any merit in the present writ application. When, from the resultsheet, it is apparent that for the election to Ward No. 7, the petitioner had secured 163 votes compared to 166 by the respondent no. 6 and further the result as reflected in the writ petition and obtained from the Internet by the petitioner showing he to have secured 164 compared to 156 obtained by the respondent no. 6, was an apparent error inasmuch as the said 156 votes was secured by the respondent no. 6 but for the post of ‘panch’ and not for Ward No. 7 and for such election of ‘panch’, Sunita Devi had secured 164 votes and was declared elected, for the post of election to Ward No. 7, the petitioner had obtained only 163 votes and the respondent no. 6 had secured 166 votes. Accordingly, besides the certificate being issued to the respondent no. 6, even Forms 21 and 23 reflect the same position. This being the factual aspect reflected from the official records, only clerical error having been corrected, there being no estoppel for correction of a bona fide mistake, no relief can be granted to the petitioner on the basis of a hyper-technicality that once a certificate has been issued in her favour, she has to be administered oath and has to be considered as the winner for Ward No. 7. The Constitution of India mandates the truthful reflection of the mandate of the people, which in the facts and circumstances of the present case clearly shows respondent no. 6 to be the winner. Moreover, a clerical error cannot frustrate the will of the majority.”



we see no reason to make any indulgence into the matter.
The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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