

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7283 of 2017

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Md. Faisal Ahmad Son of Ghulam Rabbani, Resident of Mohalla-Dilawarpur Kali Taziya, Police Station-Kotwali, District-Munger.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development, Government of Bihar, Patna.
2. The Bihar State Election Commission, Sone Bhawan, Patna.
3. The Returning Officer-cum-Deputy Development Commissioner, Munger.
4. The Assistant Electrical Officer (Nagar Nigam), Munger.
5. The District Magistrate, Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Harun Quareshi, Advocate
For the S.E.C. : Mr. Amit Shrivastava
Mr. Girish Pandey, Advocates
For the State : Mr. Subhash Prasad Singh, GP-3

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL ORDER

3 19-05-2017 Heard learned counsel for the petitioner, State and Mr. Amit Shrivastava along with Mr. Girish Pandey for the State Election Commission.

2. The petitioner has moved before the Court being aggrieved by the rejection of his nomination paper for election as a Ward Councillor to Ward No. 25 of Munger Nagar Nigam.

3. The petitioner along with others had filed his nomination papers and during the scrutiny on 29.04.2017, his nomination paper was rejected as in the column of his children, he



had shown three children, which is a disqualification under the Bihar Municipal Act, 2007. He filed an application for correcting such clerical and inadvertent error, but the same was not accepted by the Returning Officer and, thus, on the next date i.e., 30.04.2017 he filed representation before the State Election Commission through Fax.

4. Learned counsel for the petitioner submitted that such fact can be verified from the videography done of the scrutiny on 29.04.2017.

5. Learned counsel for the State Election Commission very fairly submitted that the same being a clerical mistake, if it is true, then they would rectify the mistake so that blatant injustice is not caused. He submitted that the issue has to be verified from the original documents on record as well as from the videography recording held during the process of scrutiny.

6. Having considered the matter, the writ petition stands disposed off with a direction to the petitioner to appear before the State Election Commission tomorrow (20.05.2017) latest by 2:00 P.M., along with a copy of this order (may be web copy duly attested by the petitioner). Upon him doing so, the State Election Commission shall get the matter factually verified through the Commissioner, Munger, who shall go through the



records and also the videography held of the scrutiny on 29.04.2017. If it is found that the petitioner was, in fact, giving a representation, which was not accepted by the Returning Officer and also if it is a fact that he has only two children and not three, the inadvertent mentioning of three children in his nomination paper, which was requested to be corrected and such clerical error permissible in law to be corrected if brought to the notice of the Returning Officer, the election scheduled to be held on 21st May, 2017 for Ward No. 25 of Munger Nagar Nigam shall be postponed and a fresh date shall be announced in which the petitioner shall also be shown as a candidate. However, if on verification by the Commissioner, Munger it is found that no such representation was given to the Returning Officer, the respondents are not required to take any action in the matter. The State Election Commission shall also verify as to whether the complaint has been received by them through Fax on 30.04.2017 in terms of what is reflected from Annexure-5 series of the supplementary affidavit filed on behalf of the petitioner.

(Ahsanuddin Amanullah, J.)

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