

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9374 of 2017

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Vyas Singh, Son of Late Yadu Nandan Rai, Resident of Mohalla-Kripal Tola, Ward No.1, P.O. Gadho Chak, P.S. Fatuha. District-Patna, Presently Ward Councilor of Ward No.1 of Nagar Panchayat, Fatuha (Now Nagar Parishad), District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Director, Municipality Urban Development and Housing Department, Government of Bihar, Patna.
4. The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
5. The State Election Commissioner, the State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna.
6. The Secretary, the State Election Commission (Municipality), Sone Bhawan, Birchand Patel, Path, Patna.
7. The Divisional Commissioner, Patna Division, Patna.
8. The District Election Officer (Municipality)-cum-District Magistrate, Patna, District-Patna.
9. The Deputy Collector Land Reform, Patna City, District Patna.
10. The Sub-Divisional Officer, Patna City, District Patna.
11. The Block Development Officer, Fatuha.
12. The Circle Officer, Fatuha.

.... 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 Mr. Arun Kumar, A.C. to G.P. 1
For the SEC	:	Mr. Amit Shrivastava and Mr. Girish Pandey, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 13-07-2017

Heard Mr. S.B.K. Mangalam, learned counsel for the
petitioner; Mr. Rajiv Roy, learned G.P.-1 for the State and Mr. Amit
Shrivastava along with Mr. Girish Pandey, learned counsel for the
State Election Commission.



2. In terms of the order dated 11.07.2017, the officers namely, Mr. Sanjay Kumar Agrawal, the District Election Officer (Municipality)-cum- District Magistrate, Patna; Mr. Kunj Bihari Singh, BDO, Sampatchak; Mr. Amarendra Kumar, D.D.C. Patna; Mr. Awdhesh Ram, Director, DRDA Patna and Mr. Birendra Kumar Paswan, Additional Collector (Spl. Prog.), Patna are present.

3. Finally, the factual aspect stands settled and an admitted position has been brought on record, by way of a report of the District Election Officer (Municipality)-cum-District Magistrate, Patna, contained in Memo No. 2051 dated 12.07.2017. The same is based on a report submitted by a fresh team constituted by the District Election Officer (Municipality)-cum-District Magistrate, Patna comprising of the Deputy Development Commissioner, Patna; the Director, District Rural Development Agency, Patna the Block Development Officer, Sampatchak. The gist of the report is that there is some error with regard to allocation of population, which had to be in terms of the direction of the State Election Commission, where the population band fixed, had to be taken care of in the exercise of delimitation of wards.

4. At this juncture, when the facts are admitted, two options are available. First, that in terms of the population figures, the exercise be gone into afresh with regard to reservation of the



constituencies. However, this would have had a cascading effect and would lead to changes at every stage in the election process, which has already commenced and filing of nomination is going on. The other option is that, as the delimitation also had to be done afresh, in order to maintain the population figure shown previously, slight correction in the boundary of the concerned Wards would resolve the issue as no further exercise would be required to be done in this regard. The Court is conscious that if there is correction in the population figure of even one Ward, normally an opportunity is given by inviting objections. However, in the present case, when the available grounds for any objection have already been looked into in the exercise which has been conducted pursuant to the order of this Court, there is no requirement of inviting further objections.

5. The Court has taken the views of Mr. Amit Shrivastava, learned counsel for the State Election Commission; the District Election Officer (Municipality)-cum-District Magistrate, Patna and Mr. Rajiv Roy, learned G.P.-1 and they have submitted that the latter approach would serve the purpose of balancing the statutory requirement without impeding the ongoing election process in any manner and putting the clock back.

6. At this juncture, learned counsel for the petitioner pointed out that he had not raised any objection with regard to



delimitation of the geographical boundary of the Wards and even the District officials/respondents were not having any second thoughts about it and thus, any delimitation of the Wards, especially Ward No. 1, would not be justified.

7. Having considered the submissions of learned counsel for the petitioner, the Court would only observe that once the election process had started, the writ petition could very well have been disposed off relegating the petitioner to his statutory remedy post election, in accordance with law. However, taking the issue on a wider platform, the Court undertook the exercise and now once an error has come to the notice of the Court, which is capable of being rectified without causing any turbulence/disturbance, the Court would put a seal of approval on the same moreso, in view of the fact that even learned counsel for the State Election Commission as well as the District authorities have agreed to such minor modification of the boundary. The fact that the stage of election has substantially progressed and filing of nomination is going on is an additional factor which has persuaded the Court to go for a course correction exercise causing least hindrance to holding of election which is the primary consideration.

8. Having regard to the broader public interest, the writ Court has served its purpose i.e., of not only sensitizing the officials



with regard to the need for being diligent, careful and cautious while undertaking any exercise which is not merely for the purpose of serving a formality and also of making public such lapse on the part of the authorities so that in future, such misconduct/error does not occur and if at all, there is any error, upon the same being pointed out, they take the objection seriously and the exercise required under law is also done with an open mind and in a manner which is free, fair and transparent and also with actual spot verification and not only as a mere 'visit' to the place for the purpose of passing a formal order, disposing of such objection.

9. Under the circumstances, the writ petition stands disposed off with a direction to the State Election Commission as well as the District Authorities to correct the geographical boundary of the concerned Wards so that the population is in accordance with the direction issued by the State Election Commission. This shall be based in terms of the report submitted to the Court today dated 12.07.2017. The authorities are not required to go into any other formality and the election will proceed as per the schedule. However, since some area/population is migrating from one Ward to another, the migrant voters shall be at liberty that, in case, they desire to file nomination, they can do so latest by day after tomorrow.

10. For the purposes of informing such persons, let there



be wide publicity in the area where the actual migration occurs so that such persons are aware of the present order and their right to file nomination.

11. Day before yesterday, Mr. Ravi Ranjan, Mr. Saurav Kumar and Mr. Aman Ranjan, Law students/interns, on a query of the Court expressed their desire to be also part of the team which was to carry out the exercise in terms of the order of the Court. Having taken part in the said exercise, they have submitted a report. From the report, it appears that they have actively participated and contributed to the exercise and their report supports the official version. The Court appreciates such effort on their part and is sure that the experience shall be useful for them in future when they join this noble profession.

12. Before parting with the order, the Court expressed its concern at the conduct of the team which had earlier submitted a report and had found no error in the population of the Wards as had been published, which subsequently, upon spot verification in the presence of the parties as well as the three interns, who were acting as officers of the Court, had been found to be incorrect and the objection of the petitioner was found to be correct.

13. At this juncture, Mr. Sanjay Kumar Agrawal, the District Election Officer (Municipality)-cum-District Magistrate,



Patna submitted that he shall call upon them to show cause as to under what circumstances such incorrect report has been submitted and take the matter to its logical conclusion in right earnest. The Court, thus, refrains from passing any order on the said issue.

14. The writ petition stands disposed off in the aforesaid terms.

15. The personal appearance of the officers stands dispensed with.

(Ahsanuddin Amanullah, J.)

P. Kumar

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