

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1804 of 2017

=====

1. Ram Briksh Tanti Son of Late Ganesh Tanti
2. Pinki Devi Wife of Ram Briksh Tanti
Both are residents of Mohalla - Chhoti Ashikpur, P.S. - East Colony, District - Munger.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Govt. of Bihar, Patna.
2. The Secretary, State Election Commission, Bihar, Patna.
3. The District Magistrate, Munger.
4. The Sub-Divisional Officer-cum-Returning Officer, Munger.
5. The Executive Officer, Nagar Parishad, Jamlapur.

.... Respondent/s

=====

Appearance :

For the Petitioners	:	Mr. D. K. Sinha, Sr. Advocate with Mr. Ambika Bhagat, Advocate
For the State	:	Mr. AC to AAG 7
For the SEC	:	Mr. Amit Shrivastava with Mr. Sanjeev Nikesh, Advocates
For the Jamalpur Nagar Parishad	:	Mr. Rakesh Kumar Sinha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 06-03-2017

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

The petitioners have moved the Court being aggrieved by reservation of the Wards of Jamalpur Nagar Parishad.

Learned counsel for the petitioners submitted that they are the residents of Ward No. 2 of the concerned Nagar Parishad and reservations have been made as per the 2011 census figures relating to the population of various sections of the society. Learned counsel submitted that till 2015, the petitioners, belonging to *Tanti* caste, were



in the Backward Class Category but since 2015, as per the State Government notification, they are included in the Scheduled Caste Category. Learned counsel submitted that Ward No. 2 has been declared as a Backward Class Category seat and the petitioners now having come into the Scheduled Caste Category, cannot stand for election. Learned counsel submitted that when the 2011 census figures have been taken to be the basis for making such reservation, the position existing in the year 2011 should be considered and the petitioners belonging to Backward Class Category in the year 2011, should be accepted as Backward Class candidate, if they decide to contest the election in their own constituency for the elections which are to be held this year itself.

Learned counsel for the State Election Commission submitted that as per the 2011 census the exercise having been undertaken for the purpose of reserving the constituency, does not require any interference.

Learned counsel for the State submitted that the amendment has been brought in the Bihar Municipal Act, 2007 with regard to the declared official figures of the 2011 census which would form basis of all exercise relating to delimitation and fixing of the Wards and their reservation which will continue till the 2021 census. Learned counsel submitted that because of the availability of only



figures regarding census of the year 2011, the conscious decision of the State should not be interfered.

Having considered the rival contentions, the exercise undertaken by the State Election Commission with regard to reservation of the Wards as per statutory requirements, seems to be correct. From the materials on record the reservation has to be done in a manner that first the reservations would be of all seats for Scheduled Castes in a descending order in which they have the maximum population. Thereafter such seats would be left aside and reservation for the Backward Class Category would be done from the remaining Wards as per the total population in descending order. The petitioners now coming into the category of Scheduled Castes, shall have the statutory right to contest as a Scheduled Caste Category candidate in the Wards so reserved for them as Scheduled Caste candidate. In the present case, that exercise having been done, the Court is not inclined to interfere in the matter. Accordingly, the writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	

