

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7002 of 2017

Along with

Interlocutory Application No. 3616 of 2017

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Shaista Khatoon wife of Zafar Resident of Mohalla-Haji Subhan, Police Station-Kotwali, District-Munger

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Urban Development, Govt. of Bihar, Patna.
2. The Bihar State Election Commission, Sone Bhawan, Patna.
3. The District Magistrate-cum-Returning Officer, Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Abdul Manan Khan, Advocate Mr. Md. Harun Quareshi, Advocate
For the SEC	:	Mr. Amit Shrivastava, Advocate Mr. Sanjeev Nikesh, Advocate
For the State	:	Mr. Abbas Haidar, SC-6

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 17-05-2017

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

2. The petitioner has moved the Court seeking the
following reliefs:

“I. For issuance of writ in the nature of certiorari or any other appropriate writ order and direction for quashing the order which has been passed by the Collector cum Returning Officer by which cancelled the nomination of the petitioner of Ward No. 20 on 28.04.2017 which is situated at Munger Nagar Nigam and same was published in daily Hindi Newspaper (Prabhat Khabar) dated 30.04.2017

II. For issuance of writ in the nature of certiorari or any other appropriate order and direction for quashing the notification vide letter no. Na. Ni. 50-



26/2017-1135 dated 27.03.2017 published by Respondent No. 2 by which letter State Election Commission, Bihar has abstained them who are having more than two children after 04.04.2008 which is illegal and against the constitution of India.

III. For issuance of a writ in the nature of mandamus or any other appropriate writ and order and direction commanding the concerned respondent to accept the nomination form of the petitioner as a candidate of Nagar Nigam of ward no. 20 (Haji Subhan) in the town of Munger District.

IV. For any other relief/reliefs may be granted in favour of the petitioner for which he is entitled.”

3. The petitioner had filled up the nomination paper for the post of Ward Commissioner from Ward No. 20 of Munger Municipality. During scrutiny, it transpired that the petitioner is hit by the disqualification of Section 18(1)(m) of the Bihar Municipal Act, 2007 (hereinafter referred to as the ‘Act’), inasmuch as, she had more than two living children and one has been born after the cut-off date 04.04.2008.

4. Learned counsel for the petitioner submitted that she was elected in 2007 and also 2012 but for the present transaction, her nomination paper has been rejected. On a query of the Court as to whether the ground for rejection is factually correct, learned counsel for the petitioner does not deny, but only submitted that because she was allowed to contest and also won the election in the year 2007 and



2012, she should be permitted to contest the present election also.

5. Learned counsel for the respondents submitted that the bar is statutory and right to contest election not being fundamental, the provisions of the statute have to be given effect to.

6. Having considered the rival contentions, on the basis of admitted facts, the petitioner cannot contest the election in question as it is directly against the specific mandate of Section 18(1)(m) of the Act.

7. Accordingly, the writ petition stands dismissed.

8. Interlocutory Application No. 3616 of 2017 stands disposed off.

(Ahsanuddin Amanullah, J)

P. Kumar

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