

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1506 of 2017

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1. Kapil Deo Sahani, Son of Late Laddu Lal Sahani, resident of Mohalla - Nayak Toli, Ward No. - 2, P.S. - Rosera, District - Samastipur.
 2. Amar Pratap Singh, Son of Pawan Kumar Singh, Resident of Mohalla - Dhab, Ward No. - 15, P.S. - Rosera, District - Samastipur.
 3. Rajendra Prasad Sahani, Son of Late Harihar Sahani, Resident of Mohalla - Kattharbanni, Ward No. - 10, P.S. - Rosera, Samastipur.
 4. Seema Kumari, Wife of Ishwar Sahani, Resident of Mohalla - Mahadev Math, Ward No. - 1, P.S. - Rosera, Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The State Election Commission, Bihar, Sone Bhawan, Bir Chand Patel Marg, Patna through the State Election Commissioner, Bihar.
4. The District Election Officer (N)-cum-District Magistrate, Samastipur.
5. The Deputy District Election Officer (N), Rosera.
6. The Executive Officer, Nagar Panchayat, Rosera.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Mr. Avinash Kumar and Mr. Krishna Chandra, Advocates
For the State	:	Mr. Kinkar Kumar, S.C. 9 Mr. Zaiki Haider, A.C. to S.C. 9
For the Respondent No. 6	:	Mr. Abhay Shanker Singh, Advocate
For the SEC	:	Mr. Amit Shrivastava and Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 06-04-2017

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

2. The petitioners have challenged the issuance of Form-
10 by the District Election Officer-cum-District Magistrate,
Samastipur by which the different Wards of the Rosera Nagar



Panchayat have been reserved.

3. Learned counsel for the petitioners submitted that the same is contrary to Section 12 of the Bihar Municipal Act, 2007 (hereinafter referred to as the 'Act') read with Rule 29 of the Bihar Municipal Election Rules, 2007 (hereinafter referred to as the 'Rules'). Learned counsel submitted that the exercise with regard to reservation of seats, especially for the Backward Classes has not been properly carried out for the reason that there is non determination of the population of the Backward Classes and the same has been merged with other castes to come to that finding. Learned counsel submitted that even after that Wards which were more deserving for being reserved have not been reserved and Wards which did not deserve to be reserved have been reserved and further that the requirement of rotation has not been followed. Learned counsel submitted that there is no formula as to how a particular Ward would be reserved for Backward Classes.

4. Learned counsel for the State Election Commission submitted that the contention of learned counsel for the petitioner is misconceived. It was submitted that the scheme is short and simple. It begins with first reserving the Wards for the Scheduled Castes and Scheduled Tribes which is to be done in descending order as per the population of Scheduled Castes and Scheduled Tribes in each Ward.



After the same has been done, the remaining Wards, going by the highest number of total population, the seats have to be reserved for the Backward Classes. It was submitted that once the same is done, there is lateral reservation from the category concerned i.e., Scheduled Castes, Scheduled Tribes, Backward Classes and the unreserved category, for women. Learned counsel submitted that the same is in terms of Rule 29(2)(iv)(iii) of the Rules.

5. Having considered the rival contentions, the Court finds no merit in the present writ application. The main contention of learned counsel for the petitioners that for the reservation of Backward Classes, there is no guideline or formula available is not correct. Rule 29 itself provides as to how reservation would be done. The same is based on the official 2011 census figures. It is pertinent to note here that in the census, there was only figures relating to the Scheduled Castes and Scheduled Tribes and not of the Backward Classes. Once there are no official figures for the Backward Classes, it is obvious that Backward Classes form part of the population which is minus the Scheduled Castes and Scheduled Tribes population, from the total population. Once the Backward Classes are held to be forming part of the population, excluding the Scheduled Castes and Scheduled Tribes, the Rules provide that the Ward which has the highest total population would be reserved for the Backward Classes.



In the present case, a comparison of Forms 6 and 10 clearly reveals that the said exercise has been done in terms of the 2011 census figures and as per the formula and, thus, cannot be faulted.

6. In view thereof, the Court does not find any occasion to interfere in the matter.

7. Accordingly, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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