

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7349 of 2017

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Daresh Mukhiya, son of Srichand Mukhiya, resident of Village- Khairwa, Police Station- Bela, District- Sitamarhi.

.... Petitioner/s

Versus

1. State of Bihar through the Special Secretary, Co-operative Department.
2. Bihar State Election Authority through its Secretary, 32 Harging Road, Patna- 800001.
3. Sri Birendra Paswan, Former District Co-operative Officer, Sitamarhi, at present posted as District Co-operative Officer, Aurangabad.
4. District Magistrate-cum-District Election Officer Officer, Sitamarhi.
5. District Co-operative Officer, Sitamarhi-cum-Deputy District Election Officer, Sitamarhi.
6. Block Development Officer, Parihar, District- Sitamarhi.
7. Parihar Prakhand Matasyajivi Sahyog Samiti having its office at Parihar, District- Sitamarhi through its Secretary, Thaga Sahni, son of Mangal Sahni,
8. Thaga Sahni, son of Mangal Sahni, presently posted as Secretary, Parihar Prakhand Matasyajivi Sahyog Samiti having its office at Parihar, District- Sitamarhi.
9. Upendra Sahni, son of Late Hajari Sahni, resident of Village- Dhami Tol, Police Station- Parihar, District- Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the State : Mr. Pushpanjali Sharma, AC to SC 20

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 28-06-2017

Heard learned counsel for the petitioner; State;

State Election Authority and respondents no. 7 and 8.

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

“ (i) *An appropriate writ, order or direction*



quashing the ex-parte order dated 14.07.2015/30.11.2015 passed by the respondent no. 5 as contained in Annexure '4' declaring the same as illegal, arbitrary and malafide, be issued.

(ii) An appropriate writ, order or direction commanding the respondents especially the respondent no. 6 to include the names of 1216 members as mentioned in Annexure '3' in the voter list being prepared for the year 2017 election, be issued.

(iii) Further, prays for issuance of any other appropriate writ/writs, order/orders, direction/directions and/or relief/reliefs which the petitioner is entitled to in the facts and circumstances of the case."

3. Basically the grievance of the petitioner is that in the voter list prepared of *Parihar Prakhand Matyasjivi Sahakari Samiti Ltd.* in the year 2012, the total number of voters was 4217 whereas in the provisional list published for the ensuing election in the year 2017, names of 1217 members had been deleted.

4. Learned counsel for the petitioner submitted that



they were deleted without the due procedure prescribed and even without giving the basic opportunity of being heard as they were neither party nor noticed. The said fact is contested by the private respondents.

5. Learned counsel for the State has taken a categorical stand that it was under the order of the respondent no. 5 that such deletion was allowed but the same was without notice to the members whose names were deleted.

6. After some arguments, the parties came to a consensus and took a unified stand that all those persons, out of the 1217, whose names have been deleted in the voter list in the year 2017, shall be included in the membership list as well as the voter list upon them showing evidence of them having become members after depositing the requisite amount i.e., admission fee and share money.

7. In view thereof, the writ petition stands disposed off with liberty to the said 1217 members, whose names do not figure in the voter list for the 2017 election compared to that of the voter list in the year 2012, to appear before the respondent no. 5, along with supporting materials to show that they are members after having deposited the admission fee and share money. The same be done within two weeks from today. The persons, who are able to



satisfy the respondent no. 5 that they are valid members, their names shall be included in the voter list and they shall be allowed to take part in the election to be held thereafter. In such background, the date of filing nomination which is ending on 1st July, 2017, stands extended to 17th July, 2017. The election shall thereafter proceed in accordance with law under the supervision and guidance of the State Election Authority.

8. The Court records that the order has been passed with consent of the parties.

9. The Court would further like to observe that it has not expressed any opinion on the merits of the matter.

10. Learned counsel for the State shall communicate the order to the respondent no. 5 for compliance. The petitioner shall also serve a copy of this order on respondent no. 5 latest by 1st July, 2017.

(Ahsanuddin Amanullah, J)

Anjani/-

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