

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1118 of 2016

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Rajiv Choudhary Son of Jyotindra Choudhary Resident of village - Sirajpur, Post
Office Temtha, Police Station Parbatta, District - Khagaria

.... Appellant/s

Versus

1. The State of Bihar through the Chief Election Commissioner, State Election Commission, Bihar, Patna
2. The State Election Commission, represented through the Secretary, State Election Commission, Bihar, Sone Bhawan, 3rd Veer Chand Patel Marg, Patna 800001
3. The Principal Secretary, Department of Panchayati Raj, Bihar, Patna
4. The District Magistrate - Cum - District Election Officer, Khagaria
5. The Sub - Divisional officer, Gogari - Cum - Senior Incharge officer, Parbatta, Khagaria
6. The Block Development officer, Parbatta, Khagaria - Cum - the Returning Officer
7. Ranju Kumari Wife of Pawan Kumar Choudhary Resident of village - Sirajpur, Police Station Parbatta, District - Khagaria

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Bhushan Kumar Manglam, Advocate
For the Respondent/s : Mr. Ravi Verma, AC to GP-4
For SEC Mr. Amit Shrivastava, Advocate
Mr. Sanjeev Nikesh, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 09-03-2017

The challenge in the present Letters Patent Appeal is to
an order passed by the learned Single Bench on 4.5.2016 in C.W.J.C.
No.7350 of 2016 whereby, the writ application filed by the
respondent/writ applicant to accept her nomination to contest the
election of Mukhiya was allowed and she was permitted to contest
election.



Learned Counsel for the Appellant submits that the election was conducted in terms of the order of High Court but the writ applicant has lost the election. It is argued that though the writ applicant has lost the election, but question is as to whether the non-acceptance of nomination paper can be made the subject-matter of grievance in a writ application, required to be decided.

We do not find that such question is required to be decided in the present case as the writ applicant has already lost the election. But the question of law in respect of maintainability of a writ proceeding in view of alternative remedy of election petition in terms of Section-137 read with Section 139 of the Bihar Panchayat Raj Act, 2006 is kept open, to be decided in an appropriate case at an appropriate stage.

The Letters Patent Appeal is disposed of.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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