

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.316 of 2017

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Smt. Sunaina Devi, Wife of Ram Dayal Prasad, resident of village - Pratap Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 11, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. - Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna
2. The State Election Commission, Bihar through its Secretary, Sone Bhawan, Birchand Patel Marg, Patna 800001
3. The District Magistrate - Cum - the District Election Officer, (Municipality), Muzaffarpur
4. The Sub Divisional officer, West Muzaffarpur, Muzaffarpur
5. The Executive officer, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. - Muzaffarpur
6. Smt. Kiran Devi, W/o Sri Radheshwar Prasad Singh, resident of village - Parsauni Asha Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No.3 and the Chief Councillor, Nagar Panchayat Sahebganj, Muzaffarpur
7. Sri Niranjana Prasad Singh, S/o Suraj Prasad Shah, resident of village - Pratap Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 08 Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
8. Sri Jamil Akhtar, Son of Md. Salim, resident of village - Pratap Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 06, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
9. Smt. Jaibun Nisha, W/o Hanif Mian, resident of village - Nawa Nagar Nizamat (Kazi Chak), P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 12, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
10. Smt. Radha Devi, W/o Sri Shankar Ram, resident of village - Nawa Nagar Nizamat (Makari Tola), P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 13, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
11. Smt. Madhavi Mukul, Wife of Sri Naresh Kumar, resident of village - Pratap Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 09, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
12. Smt. Ashma Khatoon, W/o not Known, resident of village - Pratap Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 01, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
13. Sri Gangesh Kumar Singh, S/o Not Known, resident of village - Asha Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 02, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
14. Smt. Nilam Devi, W/o Not Known, resident of village - Ashapatti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward



No. 04, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
15. Sri Rajesh Kumar, S/o Not Known, resident of village - Pratap Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 05, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
16. Sri Vijay Kumar, S/o Sri Bhola Sah, resident of village - Pratap Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 10, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur
17. Sri Bundel Paswan, S/o Late Lalan Paswan, resident of village - Pratap Patti, P.O. Karnaul, P.S. Sahebganj, Distt. Muzaffarpur, Presently Ward Councillor of Ward No. 07, Nagar Panchayat Sahebganj, P.O. + P.S. Sahebganj, Distt. Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s :
For the State : Mr. Kinkar Kumar, SC 9 with
Mr. Zaki Haider, AC to SC 9
For the SEC : Mr. Amit Shrivastava with
Mr. Girish Pandey, Advocates
For the Pvt. Respondents : Mr. Ravi Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 05-07-2017

Nobody appears on behalf of the petitioner. Learned Counsel for the State and State Election Commission have assisted the Court.

2. The issue relates to whether a person who has been defeated by a motion of 'No Confidence' can again be elected for that very post pursuant to the seat being vacated by him/her.

3. Learned counsel for the respondents submitted that the issue has already been decided by a co-ordinate Bench of this Court in



the case of **Vinay Kumar Pappu vs. State Election Commission** reported as **2016 (2) PLJR 253**. It was submitted that such is not a disqualification for re-election and only if the person has been removed by the State Government for misconduct under Section 25 (5) of the Bihar Municipal Act, 2007 and not otherwise.

4. However, the Court has further been informed that against the said decision, L.P.A. No. 948 of 2016 (Vinay Kumar Pappu vs. the State Election Commission, Bihar & Ors.) has been filed which is still pending.

5. In such view of the matter, in the considered opinion of this Court, no relief can be granted to the petitioner at this stage. Accordingly, the writ petition stands disposed off.

6. However, as the case may be, depending upon the ultimate result of L.P.A. No. 948 of 2016, filed against the order in the case of **Vinay Kumar Pappu** (supra), the writ petitioner shall have liberty to pursue her remedy, in accordance with law, before the appropriate forum.

(Ahsanuddin Amanullah, J)

Anjani/-

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