

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 532 of 2017

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Shiv Shankar Baitha, S/o Late Sri Rajdeo Baitha, resident of Ward No. 4, Sheohar
Nagar Panchayat, P.S. - Sheohar, District - Sheohar, Bihar.

.... 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, Sheohar.
5. The Deputy District Election Officer (N), Sheohar.
6. The Executive Officer, Nagar Panchayat, Sheohar.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avinash Kumar. Mr. Krishna Chandra and Mr. Shardendu Kumar, Advocates
For the SEC	:	Mr. Amit Shrivastava and Mr. Girish Pandey, Advocates
For the State	:	Mr. Kinkar Kumar, S.C. 9 Mr. Yogesh Kumar, A.C. to S.C. 9

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 08-04-2017

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

2. The challenge in the present writ application is to the
publication in Form-10 of the Wards with regard to reserving them for
the Scheduled Castes, Scheduled Tribes, Backward Classes and



women, specifically of Ward No. 15, of Sheohar Nagar Panchayat for the EBC woman candidate.

3. Learned counsel for the petitioner submitted that as per the second proviso of Section 12(2) of the Bihar Municipal Act, 2007 (hereinafter referred to as the 'Act'), Ward No. 15 having the maximum number of Scheduled Castes population was required to be reserved for the Scheduled Castes category as it was a General (unreserved) seat for the 2007 as well as 2011 elections. Learned counsel submitted that apparently the same not being done is erroneous.

4. Learned counsel for the State Election Commission submitted that in terms of the circular of the State Election Commission contained in Letter No. 6837 dated 13.10.2016, the modality of the exercise is laid down in Clause 39 of the said letter which requires that the reservation shall also be in rotation of the categories and since in 2007, it was with regard to the Scheduled Tribes, Others and Scheduled Castes, for the present election, it has been decided to do it on the basis of Others, Scheduled Castes and Scheduled Tribes.

5. The Court does not find any contradiction between Section 12 of the Act and the direction contained at Clause 39 of the letter of the State Election Commission dated 13.10.2016. The only



question is as to how actually the formula has to be adopted and implemented so as to balance the statutory provisions of the Act and the direction issued by the State Election Commission.

6. In the present case, learned counsel for the petitioner has been able to *prima facie* show that probably the exercise of reserving Ward No. 15 for EBC woman may need fresh consideration.

7. In view of the aforesaid, as has been agreed at the Bar, the matter is remitted to the District Magistrate-cum-District Election Officer (Panchayat), Sheohar (respondent no. 4), for such consideration. In view of there being urgency, let the petitioner and /or his learned counsel appear before the respondent no. 4 on 11th April, 2017 at 11.00 A.M. in his official chamber where the respondent no. 4 shall hear the petitioner or his counsel, either on that day or on a date fixed by him, which would not be long. He will thereafter pass a reasoned order, in accordance with law, with regard to reservation or otherwise of the Ward No. 15 and also with regard to the category for which it shall be reserved, and communicate the same to the State Election Commission latest by 13th April, 2017.

8. Depending on the recommendation, the State Election Commission shall take a view so that Ward No. 15 may finally be shown in Form-10 as per the decision taken by the State Election Commission ultimately, in accordance with law, pursuant to the



exercise as directed by this order.

9. The writ petition stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
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