

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4700 of 2017

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Kumari Priyanka wife of Pankaj Kumar Singh, resident of Village New Area
Chittaur Nagar, Near Mahesh Academy, Ward No. 12, District Aurangabad,
Aurangabad BH-824101

.... Petitioner/s

Versus

1. The State Election Commission , Sone Bhawan, 3rd Floor, Birchand Patel Marg,
Patna 800001, through its Chairman
2. Secretary, State Election Commission, Sone Bhawan, 3rd Floor, Birchand Patel
Marg, Patna 800001
3. The State of Bihar through the District Magistrate-cum-District Returning
Officer (Municipality), Aurangabad
4. The Sub-Divisional Officer-cum-Returning Registration Officer, Aurangabad
5. The Block Development Officer-cum-Assistant Returning Officer, Block
Navinagar, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Y. V. Giri, Sr. Advocate with
Mr. Pranav Kumar, Advocate

For the SEC : Mr. Amit Shrivastava with
Mr. Girish Pandey, Advocates

For the State : Mr. Lala S. N. Rais, AC to GP 2

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 04-04-2017

Heard Mr. Y. V. Giri, learned senior counsel, assisted
by Mr. Pranav Kumar, learned counsel for the petitioner; Mr. Amit
Shrivastava, learned counsel, assisted by Mr. Girish Pandey, learned
counsel for the State Election Commission and learned A.C. to G.P. 2
for the State.



2. The petitioner is aggrieved by the order of the respondent no. 2 contained in letter no. 1097 dated 24.03.2017 by which she has been informed that her request for inclusion of her name in the voter list of Ward No. 12 of Aurangabad municipality has been rejected.

3. Learned counsel for the petitioner submitted that for inclusion of her name in the voter list of Ward No. 12 of Aurangabad municipality, she had filed an application on 20.02.2017 which was duly accepted but the same was not acted upon forcing her to move before the respondent no. 1 and by the impugned order, the same has been rejected, which is erroneous. Learned counsel submitted that the State Election Commission has relied upon the report of the respondent no. 4 which was forwarded by the respondent no. 3 with his comments to the State Election Commission and, thus, there has not been fair consideration of the case of the petitioner since all the documents submitted by her have neither been taken into account nor discussed. Learned counsel submitted that the reliance placed on the report of the respondents no. 3 and 4 without there being any discussion relating to the documents submitted by the petitioner, the rejection of prayer of the petitioner for inclusion of her name in the concerned voter list is arbitrary.

4. Learned counsel for the State Election Commission, at the very outset, submitted that the State Election Commission is not



supposed to hold an enquiry at its level and has rightly called for report from the district authorities, who are also under the supervision of the State Election Commission, with regard to the municipal election in question and once report has been submitted, findings therein are admissible and can be relied upon for the purposes of arriving at a decision, as the same are official records and further that before the respondent no. 4, the petitioner was also heard at length.

5. Having considered the rival contentions, in the opinion of the Court, the report of the respondent no. 4 appears to be based on adverse inference drawn due to alleged non-production of certain original documents relied upon by the petitioner before the officer concerned. Today when called upon, learned counsel for the petitioner has produced originals of many documents. Keeping in mind the same, as the issue relates to the authorities taking a decision with regard to the validity, authenticity and the probative value of the documents, the Court deems it appropriate to remand the matter to the District Magistrate, Aurangabad (respondent no. 3), to consider the matter afresh based upon the materials produced before him by the parties concerned, to be verified with the originals and as per his satisfaction.

6. Accordingly, the writ petition stands disposed off with a direction to the respondent no. 3 to pass a reasoned order with regard to the claim of the petitioner for inclusion of her name, or



otherwise, in Ward No. 12 of Aurangabad Municipality. For the said purpose, the petitioner shall appear before the District Magistrate, Aurangabad along with a copy of this order on 10th April, 2017 at 11:30 A.M. in his official chamber. The District Magistrate shall then fix a date for hearing and shall inform all the parties concerned, including the complainant. The exercise of hearing the parties shall be completed within one week and a report shall then be submitted to the State Election Commission. Copy of the report shall also be forwarded to the petitioner by the District Magistrate. The State Election Commission shall thereafter pass a speaking order in the matter, in accordance with law, within one week from the receipt of the report from the District Magistrate, Aurangabad. The District Magistrate, Aurangabad shall not be prejudiced, either by his earlier report or the report of the respondent no. 4, while hearing the matter afresh on its own merits based on the records produced before him in original and such other materials which he may call for.

(Ahsanuddin Amanullah, J)

Anjani/-

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