

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5520 of 2017

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Brahmanand Singh, son of Sri Sadhu Sharan Singh, Resident of village-
Rambhadra, Chai Tola, Ward No.30, P.S. Hajipur Town, District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Urban Development Department, Government of Bihar,
Patna
3. State Election Commission through Secretary, Sone Bhawan Patna
4. State Election Commissioner, Sone Bhawan, Patna
5. District Magistrate, Vaishali
6. Sub Divisional Officer-cum- Returning Officer, Municipal Election 2017,
Hajipur, Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Naresh Chandra Verma, Advocate Mr. Natraj Verma, Advocate Mr. R.K. Singh, Advocate
For the Respondent/s	:	Mr. R.S. Singh, AC to AAG-7
For State Election Commission:		Mr. Amit Shrivastava, Adv. Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 25-04-2017

Challenging Section 18(1)(m) of the Bihar Municipal
Act, 2007 and seeking a declaration that the said provision is *ultra*
vires Article 14 of the Constitution, it imposes unreasonable
restriction on the right of a person to have children, this writ petition
has been filed.

2. Even though various grounds were canvassed in
support of the aforesaid prayer made in the writ petition, the
question need not be gone into any further as the issue with regard to



the subject-matter of the writ petition has already been decided both by the Hon'ble Supreme Court and by a Division Bench of this Court and similar writ petitions dismissed.

3. Challenging Section-18(1)(m) of the Bihar Municipal Act, 2007 a writ petition was filed and in the case of Arun Ravidas vs. The State of Bihar & Ors. (C.W.J.C. No.16546 of 2010), decided by a Division Bench of this Court on 7.4.2011 and reported in 2011 (2) P.L.J.R. 795, the constitutional validity of this Clause has been upheld and while doing so the learned Division Bench had referred to an earlier judgment of the Supreme Court in the case of Javed & Ors. vs. State of Haryana, reported in AIR 2003 SC 3057. Before the Supreme Court in the case of Javed (supra), Section 175(1)(q) of the Haryana Panchayat Raj Act, 1994 was challenged and Section 175(1)(q) of the Haryana Panchayat Raj Act, 1994 reads as under:

“175(1)(q) has more than two living children.”

4. A perusal of the provisions of Section- 18(1)(m) of the Bihar Municipal Act, 2007 and Section 175(1)(q) of the Haryana Panchayat Raj Act, 1994 goes to show that both are identical in terms and similar in nature. The Hon'ble Supreme Court while considering the validity of Section 175(1)(q) of the Haryana Panchayat Raj Act, 1994 in the case of Javed (supra) had gone into



the question of discrimination, legislative competence and the reasonableness of the disqualification based on such a Clause and has upheld that identically in the State of Bihar.

5. Once the Supreme Court and a Division Bench of this Court have upheld the statutory provision, we see no reason to make any indulgence into the matter.

6. The petition is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

