

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 5840 of 2017

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1. Pradip Kumar Byahut, Son of Late Yogendra Prasad Byahut, Resident of Mohalla- Nai Bazar, P.O. Chapra, P.S. Bhagwan Bazar, District- Chapra (Saran).
 2. Madhu Kumari @ Madhu Kumari Byahut, D/o Late Yogendra Prasad Byahut, Resident of Mohalla- Nai Bazar, P.O. Chapra, P.S. Bhagwan Bazar, District- Chapra (Saran).

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Election Commissioner, Bihar Station Election Commission, Patna.
3. The Commissioner, Saran Division, Chapra.
4. The District Magistrate-cum- District Election Officer, Chapra.
5. The District Panchayat Raj Officer, Saran at Chapra.
6. The S.D.O., Sadar-cum- Election Officer, Chapra Nagar Nigam, Chapra.

.... Respondent/s

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Appearance :

For the Petitioners	:	Dr. Alok Kumar Sinha, Advocate
For the State	:	Mr. G. P. Ojha, GA 7
For the SEC	:	Mr. Amit Shrivastava with Mr. Sanjeev Nikesh, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 27-04-2017

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

2. Learned counsel for the State seeks permission to correct the date shown by the deponent in the affidavit which, according to



him, inadvertently has been mentioned as 26.04.2017, though the same has been affirmed today i.e., 27.04.2017. The deponent himself has also tendered apology.

3. In view thereof, learned counsel for the State is permitted to correct the date shown by the deponent as 26.04.2017. Let the same be done during the course of the day.

4. The petitioners have moved the Court being aggrieved by non-consideration of their objections with regard to demarcation of boundary of Ward No. 17 of the upgraded Chapra Nagar Nigam.

5. Learned counsel for the petitioners submitted that in terms of draft publication, they had made objection relating to demarcation of boundary, area and class of population of Ward No. 17 but the final notification dated 20.03.2017 did not reflect the correct position and thus, his representation remained unconsidered.

6. Learned counsel for the State Election Commission has filed counter affidavit and submitted that they are in agreement with the petitioners on the issue that the exercise, as was required to be undertaken by the district officials for constituting the Wards in terms of Letter No. 6648 dated 21.09.2016 of the State Election Commission, has not been correctly complied with and thus, the State Election Commission has directed the District Magistrate-cum-District Election Officer, Saran to make constitution of Wards in



terms of the said directive. He drew the attention of the Court to the categorical statement made in paragraph no. 9 of his counter affidavit which reads as under:

“9. That it is stated and submitted that since Ward No. 17 of Chapra Nagar Nigam has not been constituted in terms of Annexure-R/1 to the Counter Affidavit and fresh exercise is going on for Constitution of Ward of Chapra Nagar Nigam including Ward no. 17/Chapra Nagar Nigam and as such either the representation/application filed by the Petitioner as contained in Annexure-7 is pre-mature and hence it has been not considered by the State Election Commission.” (emphasis supplied)

7. Learned counsel for the State has also filed counter affidavit, which is of no help in the present proceeding as only a justification of what has already happened has been stated. It is unfortunate that the final repository of power being the State Election Commission, once it has taken a categorical stand, on oath in the affidavit filed on its behalf in the present proceeding, that the exercise required was not in terms of its direction, the stand taken by the respondents no. 4, 5, and 6 justifying such exercise cannot be appreciated.

8. Be that as it may, as the State Election Commission has to take a final call on such delimitation, in view of what has been



stated on oath on its behalf in its counter affidavit, as quoted hereinabove, the writ petition stands disposed off with the observation that the State Election Commission while finally taking a call on such delimitation shall take due care in ensuring that the exercise has been completed in accordance with law, including its directions.

9. To facilitate the matter, let the petitioners serve a copy of this order on the respondent no. 4, latest by day after tomorrow, and the respondent no. 4 shall thereafter carry out the exercise as directed by the State Election Commission and while doing so, especially with Ward No. 17, shall also take into consideration the objection filed by the petitioner no. 2, copy of which is at Annexure 4 to the writ application.

(Ahsanuddin Amanullah, J)

Anjani/-

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