

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14450 of 2017

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Sanjay Kumar Tiwary, S/o Late Brij Bihari Tiwari, R/o Village- Majhiawan, P.S.-
Charpokhari, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-operative, Government of Bihar, Patna.
2. The Bihar State Election Authority, 32, Harding Road, Patna through its Chief Election Officer.
3. The Registrar, Co-operatives Societies, Bihar, Patna.
4. The District Magistrate-cum-District Election Officer, (Co-operative Societies), Bhojpur.
5. The District Co-operative Officer cum District Deputy Election Officer, Co-operative Societies, Bhojpur, Ara.
6. The Block Development Officer-cum-Election Officer, Charpokhari, Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s :
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 13-10-2017

Heard learned counsel for the petitioner; State and State
Election Authority.

2. The petitioner has moved the Court for the following
reliefs:

*“ That this is an application for issuance of writ of
mandamus commanding the respondents to conduct
2017 election of Vyapar Mandal, Charpokhari,
Bhojpur on basis of authenticated voter list submitted
by District Co-operative Officer, Chairman and*



Manager on the basis of which the authenticated voter list was published on 28.07.2017 or on the basis of the corrected voter list of the year 2012 election and not on the infirm voter list of year 2012 election and for issuance other appropriate writ/writs, direction/directions in facts and circumstances of the case.”

3. Counter affidavit has been filed on behalf of respondent no. 6.

4. The controversy involved in the present case is as to whether the final voter list for the election to *Charpokhari Vyapar Mandal Sahyog Samiti Ltd.* in the district of Bhojpur has been published and further as to whether objections filed by the persons against the draft publication of the voter list dated 28.07.2017 is in accordance with law.

5. The counter affidavit on behalf of respondent no. 6 discloses that pursuant to draft publication dated 28.07.2017, objections were filed and considering the same, the voter list of the year 2012 has been published as the final voter list. However, from the copy of the so called final voter list, the Court is unable to come to a conclusion as to on which date such publication was made and also the manner and mode of such publication. The reason is that there is a specific averment made in the writ petition on oath that no such final publication has been made and in the counter affidavit, only a



statement has been made without the date being disclosed in the copy of the document which has been annexed along with the counter affidavit. Going further, the stand is that in view of objections received which was with regard to 53 new names being wrongly added and 84 names wrongly deleted from the voter list of the year 2012, the disposal of such objections has been in a peculiar manner which is totally inexplicable and unknown in law and the officer concerned, to get over such objection, has taken the 2012 voter list and made the same as the final voter list for the election of the year 2017. Such is an absurd proposition since as per the guidelines of the State Election Authority that there had to be starting point, it was directed that the 2012 voter list, i.e., for the last election held, would be the starting point. The Managing Committees were required to send their list of members of their Co-operative Societies to the officers concerned who were required to verify the same as per the guidelines issued by the State Election Authority and thereafter forward the list to the Returning Officer for further action, i.e., publication of the draft voter list followed by receiving of objection and thereafter publication of final voter list, after dealing with any complaint or objection received. Thus, it is obvious that whatever exercise had to be done in relation to verification of the list of members sent by the concerned Managing Committees to the District Co-operative Officer in terms of the previous voter list of the year 2012, had to be done at the level of



the District Co-operative Officer and thereafter it was to be forwarded to the Returning Officer for being published as the draft voter list. The same has been done in the present case. However, in view of objections raised, the same were required to be considered individually with regard to each and every person and specific reasoned order had to be passed whether the objection was sustainable or fit to be rejected. Then only the final voter list was required to be published. In the present case, the same has not been done and a method has been adopted of treating the 2012 voter list as the final voter list. This is totally unsustainable in law. The Court, thus, has no hesitation to hold that such final published voter list is illegal and accordingly, the same stands quashed. The election scheduled for 17th October, 2017 based on such voter list obviously cannot be proceeded with and the same is stayed. The authorities are now required to consider the matter from the stage of draft publication of the voter list and objections received within the period specified, i.e., 08.08.2017 and whatever objections have been received by the authorities, the same shall be considered, in accordance with law, and the guidelines issued by the State Election Authority and with regard to each individual, a decision shall be taken and reasons assigned.

6. It is made clear that no fresh objections shall be entertained. Upon considering the objections, the final voter list shall be prepared and thereafter election shall be held as per the fresh



schedule fixed by the State Election Authority. It is also made clear that the exercise directed by the Court is restricted only to *Charpokhari Vyapar Mandal Sahyog Samiti Ltd.* and has been passed in view of the peculiar facts and circumstances of the present case and also materials brought on record.

7. The writ petition stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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