

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1077 of 2017

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1. Nitu, Wife of Amar Kumar, Resident of Village-Telaunchh, P.S.-Chautham,
District-Khagaria

.... Appellant/s

Versus

1. Asha Devi, Wife of Tanuklal Tanti, R/o-Village- Telaunchh, P.S.-Chautham,
District-Khagaria
2. Bishakha Devi, Wife of Arvind Sharma R/o Village-Telaunchh, P.S.-Chautham,
District-Khagaria
3. Mina Devi, Wife of Ashok Kumar Paswan, Resident of Village-Bakia, P.S.-
Chautham, District-Khagaria
4. Lalita Devi, Wife of Ravindra Singh, R/o Village- Telaunchh, P.S.-Chautham,
District-Khagaria
5. Sudama Devi, Wife of Bhola Singh Resident of Village-Paharchak, P.S.-
Chautham, District-Khagaria.
6. Sanjo Devi, Wife of Shyam Singh R/v - Telaunchh, P.S.-Chautham, District-
Khagaria
7. Sarita Devi, Wife of Ajoy Kumar Sinha Resident of Village-Gadhia, P.S.-
Chautham, District-Khagaria
8. The State of Bihar, through the Director, Gram Panchayat, Sone Bhawan, Patna.
9. The State Election Commission through its Secretary, Sone Bhawan
10. The District Magistrate Cum-Gram Panchayat Raj Election Officer, Khagaria
11. The Returning Officer-cum-Block Divisional Officer Chautham District-
Khagaria

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dronacharya

For the Respondent/s : Mr. PUSHKAR NARAIN SHAHI- AAG6

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date: 04-10-2017

The petitioner is aggrieved by an order dated 29.03.2017 passed by the learned Munsif, Khagaria in Election Writ (E.W.) No. 01/2016, whereby, a petition dated 20.02.2017 filed by the petitioner, who is opposite party no. 1 before the court below, has been rejected. The petitioner had filed an application before the court



below for impleadment of certain government officials including the Returning Officer-cum-S.D.O., Khagaria and other officials as party to the said Election Writ.

The said application filed by the petitioner has been rejected by the court below, vide impugned order dated 29.03.2017, by referring to Section 137(2) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to 'Act'), which provides that parties-respondents in an election petition will only be the returned candidate/s and any other candidate/s against whom allegations of any corrupt practice are made in the petition.

Learned counsel appearing on behalf of the petitioner, however, relied on a decision of this Court in case of ***Babita Devi Vs. The State of Bihar*** reported in ***2006(2) PLJR 483***, and has submitted that in case of any unavoidable necessity of any other party to the election petition, the same could be very well allowed for just adjudication of the election petition. He has submitted that the petitioner is the returned candidate for the post of Mukhiya of Telaunchh Panchayat in the district of Khagaria. In the Election Petition the main allegation to challenge the petitioner's election is on the ground of illegality committed by the officials, to whom the petitioner wanted to implead in the election petition.

I do not find any merit in the application in view of the



clear provision contained in Section 137(2) of the Act. The observation, which has been made by this Court in case of *Babita Devi Vs. State of Bihar* can be at the maximum, considered as enabling the Court to allow addition of any other party, but only in peculiar circumstance. The said decision does not lay down a law that if any application is filed for addition of parties, other than those permissible under Section 137(2) of the Act, the same must be allowed.

The court below upon considering the facts and circumstances has concluded that impleadment of persons as party to the election writ is not essential and has, accordingly, dismissed the application filed by the petitioner for addition of parties.

The order impugned does not suffer from any illegality and does not warrant interference of this Court, under Article 227 of the Constitution of India. The same being in consonance with the provision under Section 137(2) of the Act.

Accordingly, this application stands dismissed.

(Chakradhari Sharan Singh, J.)

Rakhi

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	30.10.2017
Transmission Date	

