

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1670 of 2017

IN

Civil Writ Jurisdiction Case No. 15698 of 2016

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Rina Devi, Wife of Sri Ramji Singh, Resident of Village and P.O. Teri, PS
Mehandia District Arwal, the then Mukhiya of Gram Panchayat Raj, Teri, Block -
Kaler District Arwal.

.... Appellant

Versus

1. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commissioner, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
3. The Secretary, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
4. The Deputy Secretary, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
5. Ram Ayodhya Singh, Son of Sri Shyam Jeevan Singh, Resident of Village and P.O. Teri, PS. Mehandia, District Arwal.

.... Respondents

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Appearance :

For the Appellant : Mr. S.B.K. Mangalam, Advocate

For State Election Commission : Mr. Amit Shrivastava, Advocate
Mr. Sanjeev Nikesh, Advocate

For the Private Respondent : Mr. Abhya Kumar, Advocate
Mr. Ramchandra Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 09-01-2018



Having considered learned counsel for the parties at length and on considering the fact of the case, we find that with regard to the issue in question as to whether an Anganwari Sevika is disqualified from contesting the Election in view of the provisions of Section 136 of the Bihar Panchayat Raj Act is subjudice before the learned Single Judge, the learned Single Judge is to address the issue after considering the submission of all concerned, including the conflicting judgments with regard to the issue as are rendered in the case of Champa Devi Vs. The State of Bihar and others, reported in 2007 (4) PLJR 619, wherein it has been held that the disqualification under Section 136 is attracted and in the case of Jitu Jha Vs. The State Election Commission, reported in 2015(1) PLJR 903, wherein it is held that disqualification is not attracted. However, at the same time, in the case of Jitu Jha, it is seen that the earlier law laid down in the case of Champa Devi (supra) is not considered.

Be that as it may, the issue in question has to be reconciled and a decision taken by the learned Single Judge and, therefore, we do not enter in this controversy at this stage when the appeal is only against an interlocutory order passed whereby removal from the elected post has not been stayed and the prayer of stay has been rejected.

Keeping in view the totality of the facts and



circumstances, we request the learned Writ Court to decide the matter, after hearing all concerned, within a period of one month from the date of knowledge of this order and till then status quo with regard to the issue in question shall be maintained.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

N.H./-

AFR/NAFR	NAFR
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