

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13847 of 2016

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Ram Balak Sah, Son of Sri Jagannath Sah, resident of village-Kail Tola Shivdhar Hata, P.S.- Barharia, District- Siwan.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Panchayati Raj Department, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The District Panchayati Raj Officer, Siwan.
5. The State Chief Election Commissioner, Bihar, Patna.
6. Dhrup Sah, Son of Sri Sattan Sah, resident of village-Kail Tola Mushehari, P.S.- Barharia, District- Siwan.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad, Advocate
For the Respondent-State : Mr. Kumar Alok, SC-7
For the Respondent-SEC : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-04-2018

This writ petition has been filed by the petitioner for recounting of votes of Gram Panchayat Raj Kailgarh North No.5, Blcok-Barharia, District-Siwan.

2. Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the State Election Commission.

3. Learned counsel for the petitioner submitted that respondent no.6 adopted illegal means to win the election and



adopted malpractice in counting in connivance with the electoral authorities and managed to win the election by a margin of only six votes.

4. Learned counsel for the State Election Commission submitted that the writ petition is not maintainable in view of the statutory remedy to the petitioner under Section 137 of the Bihar Panchayat Raj Act, 2006.

5. I find substance in the submission made by the learned counsel for the respondent-Election Commission.

6. Section 137 of the Bihar Panchayat Raj Act, 2006 provides that the election of any office of a Panchayat shall not be called in question except by an election petition as prescribed. The proviso to sub-section (1) of Section 137 further prescribes that if an election to any office of a Gram Panchayat is under dispute, the election petition shall lie before such Munsif within whose jurisdiction such Gram Panchayat is situated.

7. In **Bibha Devi vs. The State Election Commission (Panchayat) & Ors. [(2017) 1 PLJR 225]**, a Division Bench of this Court has held that upon completion of an election of the Gram Panchayat and after declaration of the result of such election any challenge by contesting candidate attributing illegality to the manner of counting votes cannot be entertained in a writ



petition under Article 226 of the Constitution of India and the remedy would only be as per the statutory provision prescribed under Section 137 of the Bihar Panchayat Raj Act, 2006.

8. In view of an equally efficacious statutory remedy under Section 137 of the Bihar Panchayat Raj Act, 2006 being available to the petitioner for the redressal of his grievance as also in view of the ratio laid down in **Bibha Devi (supra)**, the writ petition is dismissed as not maintainable.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
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