

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10736 of 2018

Abhiyanta Grih Nirman Sahkari Samittee Limited through its Secretary
Namely Ravindra Thakur, son of late Rasdhari Thakur, having its office at A-
13 Vijay Nagar, Ras Bihari Path, Police Station- Rupaspur, District- Patna.

... .. Petitioner

Versus

1. Bihar State Housing Cooperative Federation Ltd. (Bihar Jharkhand)
through its Executive Officer, having its office at Lalit Bhawan, Baily Road,
Patna.
2. The Election Officer, Bihar State Housing Co-operative Federation Ltd.,
Lalit Bhawan, Baily Road, Patna.
3. The Deputy Secretary, Bihar State Housing Co-operative Federation Ltd.,
Bihar, Patna.
4. The Union of India through the Central Registrar, Department of Co-
operative (Agriculture, Government of India, Agriculture Bhawan), New
Delhi.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate
For the Respodnent Nos. 1 and 3 : Mr. Rajesh Prasad Choudhary, Advocate
Mr. Purushottam Jha, Advocate
For the Respondent No.2 : Mr. Sanjeev Kumar, Advocate
Mr. Rakesh Ranjan, Advocate
For the Respondent No.4 : Mr. Anjani Kumar Sharan, A.S.G.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 06-06-2018 Heard learned counsel for the petitioner as well as
learned counsel appearing for the respondents.

In this case, the petitioner is challenging the conduct
of the election, whereby the petitioner has wrongly been held to
be disqualified to participate in the election of the federation and
made prayer to stay the election till the grievance of the
petitioner is not redressed, has placed reliance on the judgment
rendered in the case of *N.S. Madhavan vs. Shyamdeo Prasad*,



reported in **2010(3) P.L.J.R, page 578**. On that basis, learned counsel for the petitioner submits that in normal circumstance, the Court will not entertain the writ petition but in exception circumstance, the Court would interfere in such matters.

Whereas, learned counsel for the respondents have placed reliance on the decision rendered in the case of ***Bibha Devi vs. The State Election Commission (Panchayat) and Ors.*** reported in **2017(1) P.L.J.R., 225** and in the case of ***Md. Shamim vs. The State of Bihar and Ors.*** reported in **2018(1) PLJR, page 600**, wherein this Court has held that when the process of election has been initiated any illegality committed will be decided in election petition inasmuch as learned counsel for the petitioner himself has attached the order passed in L.P.A. No.937 of 2017, wherein this court has held that if any illegality is there that can be challenged before the properly constituted statutory authority.

Relevant paragraph of the said judgment is as follows:-

“ If that be so, challenge to the election, which has been illegally held can be made by resorting to the statutory remedy of filing an election petition for the same and invoking the writ jurisdiction of this court was not called for. Accordingly, granting liberty to the appellants



to challenge the election of any of the Primary Housing Co-operative Societies before the competent statutory authority on the ground as are raised in this appeal, we dispose of the appeal, finding no case made out for indulgence. The interim order stands vacated and the competent authority is free to proceed for conducting the elections to the Co-operative Societies in accordance with law.”

Learned counsel for the respondents have also placed reliance on the order passed in C.W.J.C. No.10037 of 2018, wherein this Court vide order dated 28.05.2018 has given direction that the aggrieved person can challenge the result of the election before properly constituted election Tribunal.

In such view of the matter, this Court is not inclined to exercise the power in favour of the petitioner. However, the petitioner, if so advised, may challenge the result of the election before properly constituted statutory authority.

Accordingly, this writ petition is disposed of.

(Shivaji Pandey, J)

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