

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.668 of 2014

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Dr. Shailendra Kumar Singh, Son of Late Ram Surat Singh Resident of Village-
Laxmipur, P.S.- Kahalgaon, District- Bhagalpur, at present practicing at Ekchari
Block, Bhagalpur

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate cum District Election Officer, (Panchayat) Banka
3. The District Magistrate, Banka
4. The State Election Commissioner, Bihar through its Secretary
5. The State Election Commissioner, the State Election Commission, Bihar, Patna
6. The Joint Election Commissioner, the State Election Commission, Bihar, Patna
7. Muni Lal Paswan Son of name not known to the petitioner, resident of Village-
Gonarchak, P.S.- Dhoriya, District- Banka

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ranjeet Choubey, Advocate
For the Respondent-State : Mr. Vijay Bharti, AC to SC-7
For the Respondent-SEC : Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-02-2018

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

2. The petitioner is a doctor, who is said to have
issued birth certificate of the winning candidate, Anu Kumari, who
had contested Panchayat General Election, 2011. The winning
candidate had filed her nomination enclosing several documents
along with the birth certificate issued by the petitioner in support of
proof of her age in the election held for Panchayat Samiti and further



for the election of Panchayat Pramukh in the election of 2011. On receipt of complaint, the State Election Commissioner came to a finding that the birth certificate issued by the petitioner and the Kundali issued by one Ratish Chandra Jha, a Pandit to be collusive in nature. Hence, apart from setting aside the election of winning candidate, he also directed for registration of FIR against the winning candidate, the Pandit and the petitioner. The Pandit namely, Ratish Chandra Jha, against whom the order was passed in the same manner as against the petitioner, challenged the part of the order before this Court vide C.W.J.C. No.7371 of 2013.

3. A Bench of this Court, vide order dated 16.04.2013 allowed his prayer and held the order passed by the State Election Commissioner dated 20.03.2013 to be bad in law as far as the petitioner of that case was concerned on the ground that no notice was issued to him before recording the said finding and directing for institution of FIR against him.

4. Learned counsel for the petitioner submitted that so far as the petitioner is concerned, in the proceeding in question, i.e. Case No.32 of 2012, no notice was ever issued to the petitioner and a direction was issued by the State Election Commissioner (Panchayat), Banka to institute an FIR against him. He submitted that the order passed by the State Election Commissioner is bad in law, as



no opportunity of hearing was given to the petitioner prior to the adverse finding recorded against him.

5. Learned counsel appearing for the State and learned counsel appearing for the State Election Commission tried to defend the order passed by the State Election Commissioner. However, they admitted that the case of the petitioner is squarely covered by the judgment of this Court passed on 16.04.2013 in C.W.J.C. No.7371 of 2013. They submitted that the order passed by this Court in the aforesaid writ petition has not been challenged in appeal. They admitted that no notice was issued to the petitioner in the proceeding held against the winning candidate Anu Kumari.

6. In the circumstances, this Court is of the opinion that the order of the State Election Commissioner dated 20.03.2013, so far as the petitioner is concerned, cannot be sustained. The same is, accordingly, quashed.

7. The application stands allowed to the extent indicated hereinabove.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2018
Transmission Date	NA

