

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1105 of 2016

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Md Hashibur Rahman Son of Md Sadrul Haque R/o village - Laguwa, P.O. Dasgram, P.S. Abadpur, District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Collector, Katihar, District - Katihar.
3. The Sub Divisional Officer, Barsoi Sub Division, District - Katihar.
4. The Block Development Officer, Barsoi Sub Division, District - Katihar.
5. The Block Development Officer, Barsoi Block, District - Katihar.
6. Md Muzammil Haque, village - Laguwa, P.O. Dasgram, P.S. Abadpur, District - Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Md Helal Ahmad & Vikash Kr Shukla, Advs
For the Respondent/s : Mr Anil Kumar Singh, AC to SC XXI

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 03-12-2018

Heard learned counsel for the petitioner and the respondents.

2 The petitioner has filed this instant writ petition challenging the recommendation for cancellation of caste certificate of *Momin Caste* issued in his favour. The order is dated 22.03.2014 issued by the Sub Divisional Officer (for brevity, *SDO*), Barsoi. The same is based on a complaint made by respondent No 6 regarding the petitioner's caste certificate to be forged. The issue was got enquired by the SDO from the Executive Magistrate, Barsoi, Katihar. The Executive Magistrate,



Barsoi, Katihar afforded opportunity to the petitioner as is apparent from his order dated 30.08.2013. After examining some title deeds, sale deeds and after examining witnesses in respect of the petitioner's claim, he has come to the conclusion that the petitioner is not entitled to the benefit of the caste certificate in question as from the evidence, which has been placed before him, it appeared that he is not a member of *Momin Caste*.

3 Learned counsel for the petitioner submits that enquiry is limited to few documents and few witnesses and the order suffers from insufficiency of evidence. It is also submitted that once the caste certificate was issued after due verification, there could be no direction of its cancellation on the basis of such an enquiry, as has been conducted by the Executive Magistrate, Barsoi.

4 The enquiry, which has been conducted by the Enquiry Officer, Barsoi and which forms the basis of impugned order dated 22.03.2014, has been conducted after affording opportunity in the matter to the petitioner and also after examining evidence and witnesses in respect of the claim. Insufficiency or inadequacy of evidence and also the fact that the order is incorrect cannot be examined by this Court exercising jurisdiction under Article 226 of the Constitution. As the petitioner has been allowed



opportunity and he has participated in the enquiry, therefore, this Court will not hold that the order suffers from breach of principles of natural justice.

5 In view of the said position, this Court would refrain to exercise jurisdiction under Article 226 of the Constitution.

6 The petitioner will be at liberty to avail opportunity of other/civil remedy in which he may challenge the factual findings before the appropriate forum.

7 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.12.2018
Transmission Date	NA

