

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 2429 of 2017

Arising out of

Civil Writ Jurisdiction Case No. 14936 of 2016

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Ishrat Jahan Haidry, Wife of Tanveer Ahmad Haidry Resident of Village and P.O.
Ratanpura, P.S. Moro, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through Sri Anjani Kumar Singh, the Chief Secretary, Government of Bihar, Patna.
2. Sri Chandra Shekhar Singh, Son of not known to the petitioner, Presently posted as the District Magistrate, Darbhanga, District- Darbhanga.
3. Sri Mahesh Prasad, Son of not known to the petitioner, Presently Government Pleader, Civil Court, Darbhanga, District- Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-01-2018

Heard learned counsel for the petitioner and the State.

2. The present contempt application has been filed bringing to the notice of the Court non compliance of the order dated 02.12.2016 passed in C.W.J.C. No. 14936 of 2016, by which the trial Court was directed to decide the Election Petition No. 04 of 2016 latest by 31st March, 2017.

3. In view of the fact that this Court, on a request made by the Court below had extended the time till 15th April, 2018, the present application, at this stage, cannot be entertained and accordingly, stands disposed off.



4. However, the Court in its order dated 02.12.2016 had made the following observations:

“Thus, in the present case, the reason why the Court is persuaded to hold that it had the jurisdiction to interfere, is that there is absolutely no issue of any fact being disputed and only an interpretation of the law which is also to be done on the basis of what has been written in the order impugned itself, without requiring any other supporting evidence, documents or even interpretation. The present being such a case where the Court could have gone and decided the issue in the light of the statutory provisions, without the aid and support of any other material, clearly in the considered opinion of the Court, would not oust the jurisdiction of the High Court to exercise the power of judicial review under Article 226 of the Constitution of India, moreso, when the act of the officer concerned is patently without jurisdiction, on the admitted facts.

However, having said that, since the petitioner has elected to move before the Tribunal-cum-Munsif, Darbhanga in Election Petition No. 04 of 2016, in which he has sought the relief for getting herself declared after recounting of the entire votes, such relief, but obviously shall depend on a full trial, after leading of evidence which only the original trial Court is competent to do. In such view of the matter, the Court finds it prudent not to interfere in the present matter, at this stage.”

5. In view of the aforesaid, it is incumbent upon the Court below to ensure that unnecessarily, as a delaying tactic, it does not get persuaded with regard to the witnesses which the party may propose to examine and rather it is incumbent on the concerned Court to consider that such witness is relevant, especially keeping in mind the aforesaid observations of this Court in its order dated



02.12.2016 in C.W.J.C. No. 14936 of 2016. At the cost of repetition, the Court would reiterate that once time having been extended till 15th April, 2018, the Court below shall ensure that the same is strictly adhered to, failing which strict view shall be taken by this Court.

(Ahsanuddin Amanullah, J.)

P. Kumar

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