

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18868 of 2017

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Shital Prasad, Son of Shri Kesho Mahto, Resident of Village- Baghibardiha, P.S.- Warsaliganj, District- Nawada, at present the Adhyalesh of Baghibardiha Primary Agriculture Credit co-operative Society, Warsaliganj, Nawada.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate At+P.S.+ District- Nawada.
2. The Electoral Registration Officer-cum-the Election Officer-cum-the Sub-Divisional Officer (Co-operative societies) The District Central Co-operative Bank Limited At + P.S. + District- Nawada.
3. The Bihar State Election Authority, through its Chief Election Officer, 42, Harding Road, P.S.- Sachivalaya, District- Patna.
4. The Chief Election Officer, the Bihar State Election Authority, 42 Harding Road, P.S.- Sachivalaya, District- Patna.
5. The Nawada Central Co-operative Bank Ltd., through its Managing Director, At + P.S. + District- Nawada.
6. The Managing Director, the Nawada Central Co-operative Bank Ltd., At + P.S. + District- Nawada.
7. The Baghibardiha Primary Agriculture Credit Co-operative Society, at Baghibandiha, P.S.- Warsaliganj, District- Nawada, through its Assistant Secretary.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Gyanendra Kumar Singh, Advocate
For the Respondent/s : Md.Raishul Haque -SC10

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 17-01-2018

In the present writ petition, the petitioner has
challenged the voter list of the Managing Committee of the District



Central Co-operative Bank, Nawada. By filing Interlocutory Application No. 298 of 2018, the petitioner has sought for amendment of prayer. In the said application, he has prayed for setting aside the order issued by the respondent dated 10.01.2018 by which the nomination of the petitioner for the post of Chairman of District Central Co-operative Bank, Nawada has been rejected by the Returning Officer. He has also prayed for issuance of a direction to the respondents to allow the petitioner to participate in the election of the Managing Committee of the District Central Co-operative Bank.

2. I have heard learned counsel for the petitioner on the point of maintainability of the writ petition.

3. It is submitted that the election is scheduled to be held tomorrow i.e. on 18.01.2018.

4. It is contention of the petitioner that the rejection of nomination of the petitioner for the post of Chairman of District Central Co-operative Bank, Nawada is wholly illegal, arbitrary and unjust.

5. A similar issue was raised before this Court in **C.W.J.C. No.15229 of 2017 (Md. Shamim vs. State of Bihar & Ors.)**. This Court on consideration of the statutory provisions prescribed under Bihar Co-operative Societies Act, 1935, Bihar



State Election Authority Act, 2008, Bihar Co-operative Societies Rules, 1959 and Bihar State Election Authority Rules, 2008 and placing reliance on the decisions of the Supreme Court in **N.P. Punnuswami Vs. Returning Officer & Ors.** [AIR 1952 SC 64], **Jyoti Basu Vs. Devi Ghosal** [(1982) 1 SCC 691], **K.K. Srivastava Vs. Bhupendra Kumar Jain & Ors.** [AIR 1977 SC 1703], **Sri Sant Sadguru Janardan Swami Sahkari Dugdh Utpadak Sanstha Vs. State of Maharashtra** [(2001) 8 SCC 509], **Mohinder Singh Gill Vs. Chief Election Commission** [(1978) 1 SCC 405] and **Shaji K. Joseph Vs. V. Vishwanath & Ors.** [2016 (2) PLJR SC 330], **Harcharan Singh Vs. S. Mohinder Singh & Ors.** [AIR 1968 SC 1500], **Banwari Dass Vs. Sumer Chand & Ors.** [(1974) 4 SCC 817], **Tapash Majumder & Anr. Vs. Pranab Dasgupta & Ors.** [(2004) 13 SCC 574], **The New Friends Co-operative House Building Society Ltd. Vs. Rajesh Chawla and Ors.** [(2004) 5 SCC 795], **Umesh Shivappa Ambi & Ors. Vs. Angadi Shekara Basappa & Ors.** [AIR 1999 SC 1566] and **Election Commission of India vs. Ashok Kumar** [(2000) 8 SCC 216], held that the issue of illegal rejection of nomination can only be challenged by way of filing election petition.

6. For the reasons recorded in **Md. Shamim vs. State of Bihar & Ors.** (supra), I am of the considered opinion that as the



petitioner has an efficacious statutory remedy by way of filing an election petition for rederssal of his grievance, it would not be proper for this Court to entertain an election dispute in the extraordinary and discretionary writ jurisdiction under Article 226 of the Constitution of India.

7. Accordingly, the writ petition and the interlocutory application are dismissed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.01.2018
Transmission Date	NA

