

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16058 of 2016

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Sanoj Sharma Son of Shri Kant Sharma Resident of Village- Nandapatti,
Ward No.26, Post Office- Antaur, Police Station- Bahera, District-
Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the State Election Commission, Bihar, Patna.
The Rural Development Department, Bihar, Patna.
2. The District Magistrate-cum-The District Election Officer, Darbhanga.
3. The Sub Divisional Officer-cum-Sub Divisional Election Officer,
Benipur, District- Darbhanga.
4. Noore Alam Son of Mustafa Ansari Resident of Village- Balha, Post
Office-Antaur, Police Station- Bahera, Ward No.26, District- Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Prasad, Advocate.

For the Respondent/s : Mr. Kinkar Kumar-SC9

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 04-10-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The instant writ petition has been filed by the petitioner
for issuance of a direction to the respondents to restrain
respondent no. 4 (Noore Alam), from discharging his duty as a
ward member of Nagar Parishad, Benipur in the district of
Darbhanga.

The contention of the petitioner is that the petitioner,
respondent no. 4 and others had contested General Election 2015
of Nagar Parishad, Benipur after filing their respective nomination
papers, which were found valid in the scrutiny. The petitioner lost
the election whereas respondent no. 4 won the same after counting
of votes and hence he was declared elected.



Learned counsel for the petitioner submitted that at the time of filing nomination, respondent no. 4 had not attained the minimum age of 21 years and as such he was not qualified to be elected as a ward member of the Nagar Parishad.

On the other hand, learned counsel for the State submitted that the petitioner never raised any objection with respect to the age of respondent no. 4 prior to his election. Having contested and lost the election, he has filed the instant writ petition without there being any sufficient or cogent evidence against the respondent no.4.

Considering the nature of dispute raised by the petitioner, in the opinion of this Court, no case for interference with the functioning of respondent no. 4 as ward member of the Nagar Parishad is made out. Moreover, in case of lack of qualification, a contesting candidate has statutory remedy. Such an issue cannot be directly raised in an extraordinary writ jurisdiction. In view of availability of an equally efficacious statutory remedy, I am not inclined to entertain the writ petition. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Pradeep/Sneha

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