

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4577 of 2018

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Raj Kumar Bharti son of Sri Gurudev Paswan, residents of village- Bharelie, Police Station- Falka, District- Katihar.

.... Petitioner

Versus

1. The State Election Commission through the Secretary, State Election Commission, Government of Bihar, Sone Bhawan, R. Block, Patna.
2. The Chief Election Officer, Sone Bhawan, R. Block, Patna
3. The District Magistrate-cum-Election Officer, Katihar
4. The Block Development Officer-cum-Returning Officer, Sameli Block, Katihar.
5. Smt. Karuna Kumari, daughter of Jant Lan Paswan, wife of Mithilesh Kumar, resident of village- Malhariya, Police Station – Falka, District- Katihar.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar, Advocate
For the State : Mr. Sanjeet Kumar Singh, AC to AAG-6
For respondent nos. 1 & 2: Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-04-2018

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

2. Though a prayer has been made in the writ petition for directing the respondents to declare the petitioner as returned candidate by cancelling the candidature of respondent no. 5 in the election for Mukhiya, Gram Panchayat Raj, Malhariya held on



22.05.2016, learned counsel appearing for petitioner submitted that he would confine his prayer to the effect that the application of the petitioner made under Section 136(2) of the Bihar Panchayat Raj Act, 2016 before the Election Commission pending since 23.06.2016 be disposed of.

3. Learned counsel appearing for the petitioner submitted that in the month of February 2016, the State Government had notified election for Gram Panchayat in the State of Bihar. Accordingly, election for Gram Panchayat in the district of Katihar had been notified on 30.04.2016. The last date for filing nomination paper for the Sameli Block, Katihar had been fixed as on 06.05.2016 and scrutiny of the nomination papers was to be done in between 09.05.2016 and 11.05.2016. The petitioner being an eligible candidate for the election of Mukhiya submitted his nomination paper along with others. In all, after scrutiny, 22 contestants including the petitioner and respondent no. 5 remained in fray for the election of Mukhiya, Gram Panchayat Raj, Malhariya, Sameli Block, Katihar for which election was held on 22.05.2016 in which respondent no. 5 was declared elected after counting of votes. He was merely 19 years and two months old and ineligible for contesting the election of Gram Panchayat at the relevant time. In this regard, an application was filed by the petitioner on 23.06.2016



under Section 136(2) of the Bihar Panchayat Raj Act, 2016 before the State Election Commission, Patna and, in turn, the State Election Commission by its memo no. 5896 dated 15.07.2016 has directed the respondent no. 3 District Magistrate-cum- Election Officer, Katihar to inquire into the matter and submit a report. He submitted that an inquiry has also been conducted but inspite of lapse of about two years, the State Election Commission has not decided the application filed by the petitioner and an illegality is perpetuating in allowing an ineligible person to hold the public office.

4. Learned counsel for State Election Commission submitted that the matter is pending inquiry and immediately on completion of inquiry after giving opportunity of hearing to all the parties concerned, an appropriate decision would be taken in the matter.

5. In view of the nature of dispute and the submissions made above, the writ petition is disposed of with a direction to the State Election Commission to look into the application of the petitioner in accordance with law and take a decision after affording opportunity of hearing to all the parties concerned as early as possible, preferably within a period of three months from the date of receipt/communication of this order.



6. Since this order has been passed in presence of learned counsel for the State Election Commission, it is expected that he would communicate the same to the respondent no. 1 forthwith.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.04.2018
Transmission Date	NA

