

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1222 of 2015

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Jagannath Kumar @ Jagannath Kuer son of late Kishori Kumar, resident of Village Patarahian, Police Station Majorganj, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Co-operative, Govt. of Bihar, Secretariat, Patna
2. Kumar Baidyanath Singh alias Baidyanath Singh alias Baidyanath Singh Kunwar son of late Kishori Kunwar, resident of Village Narha Tola Patarhian Post Office Narha, Police Station Majorganj, District Sitamarhi.
3. Lal Babu Paswan, Block Development Officer, Suppi Block-cum-Election Officer, Suppi, Block (Pacs) Thana Majorganj, District Sitamarhi.
4. Birendra Kumar, District Co-operative Officer, Sitamarhi, District Sitamarhi.
5. Suman Kumar, Incharge Sub Inspector of Police, Suppi O.P. Thana Majorganj, District Sitamarhi.
6. Prashant Kumar, Block Co-operative Extension Officer, Suppi Block Police Station Majorganj, District Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Kumar, Advocate
For the Respondent/s : Mr. Md. Shahid Siddiqui, AC to AAG-5
For the Private Respondents : Mr. Kalyan Shankar, Advocate
Mr. Chandan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 27-07-2018 The impugned order dated 23.09.2015 passed in complaint case bearing no. C-2189 of 2014 is not in accordance with law.

It appears that after filing of the complaint case the complainant was examined on solemn affirmation and the enquiry witnesses were also examined in terms of Section 202 of the Code



of Criminal Procedure. Having examined the enquiry witnesses the Court was required to pass an order under Section 204 of Cr.P.C., if the Court could have been satisfied with the sufficiency of the materials to proceed against the accused persons. If the Court would not have been satisfied with the materials collected in course of enquiry, the Court could have passed an order of dismissal of the complaint in terms of Section 203 of the Cr.P.C. But what have been done in the present case is that after enquiry witnesses were examined, the Court refused to proceed with the matter and did not pass any order on the ground that the complainant had simultaneously moved before this Court in CWJC No. 19156 of 2014. It is not in dispute at the Bar that CWJC No. 19156 of 2014 was filed before this Court challenging the election of the Chairman of the PACs and that was altogether a different issue.

Learned counsel representing the private respondent has even though tried to defend the impugned order but ultimately he could not persuade this Court to take any other view.

Learned counsel for the State is present.

Since, the learned Additional Chief Judicial Magistrate, Sitamarhi, has clearly erred in passing the impugned order dated 23.09.2015 the order is hereby set-aside and the Court



below is directed to pass an appropriate order on the basis of the complaint petition, the solemn affirmation of the complainant and deposition of the enquiry witnesses which are available on the record. This Court is for the time being not going into the merit of the allegations as it is for the learned Court below to pass an appropriate order in accordance with law.

The interim order stands vacated.

The applications stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha/Ved

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