

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9178 of 2016

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Sanjeev Kumar S/o Sri Gorelal Singh, R/o Bihat (Gurdashpur Tola), Zeromile
Ward No. 15 P.S.- Barauni, Dist.- Begusarai

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Dept., Govt. of Bihar
2. The State Election Commission, Bihar, through its Commissioner, Sone Bhawan, Birchand Patel Path, Patna
3. The District Magistrate cum District Election Officer, Begusarai
4. The S.D.O. Begusarai
5. The B.D.O. Barauni Block cum Returning Officer of the Bihar Nagar Parishad, Begusarai

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Shubhesh Pandey, Advocate
For the SEC	:	Mr. Amit Shrivastava, Advocate
		Mr. Sanjeev Nikesh, Advocate
For the Respondent/s	:	Mr. Sc20- Dr.Anil Kr.Upadhyaya

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 27-11-2018

In the instant writ petition, the petitioner has prayed for issuance of an appropriate direction in the nature of mandamus commanding the respondent concerned not to deprive 625 people of ward no. 15 of Bihat Nagar Parishad from their right to cast their vote and from contesting the election of the Bihat Nagar Parishad. The petitioner has further prayed for issuance of a



direction for adding their names in the voter-list, as the same has been deleted from the voter-list published on 10.05.2016 for the Bihat Nagar Parishad Election 2016.

2. The contention of the petitioner is that Bihat Nagar Parishad Election 2016 was held on 14.06.2016 and even before the election was held, the names of 625 voters were deleted from the voter-list published on 10.05.2016. Further contention is that the respondents had no jurisdiction to delete the names of voters from the voter-list and such deletion has caused great prejudice to the right of the voters of the locality.

3. When the matter was earlier taken up, by order dated 13.06.2016, this Court had directed the respondent Election Commission to seek instructions and revert to this Court. However, neither the scheduled election was stayed nor the outcome of the election was stayed. But the outcome of the election in question was made subject to the result of the writ petition.

4. The State Election Commission has filed its counter-affidavit and supplementary counter-affidavit.

5. Referring to the averments made in the counter-affidavit, learned counsel for the State Election Commission submitted that names of altogether 770 persons were



deleted from the electoral roll after finding that they were out of the limits of the municipal area and, therefore, they were not in the electorate of the municipality. He has referred to the report as contained in Annexure- R-2 whereby finding has been recorded that altogether 770 persons were not residents within the municipal area.

6. Referring to the averments made in the supplementary counter-affidavit filed on behalf of Election Commission, he submitted that prior to deletion of the names of voters from the voter-list, objections were invited, but none of the electorate had made any objection against deletion of name from the voter-list.

7. No rejoinder to the counter-affidavit and the supplementary counter-affidavit has been filed.

8. Since the averments made in the counter-affidavit and the supplementary counter-affidavit have not been controverted by the petitioner, there is no reason as to why the same be not accepted to be true.

9. Since the voters whose names were deleted were not residents of the limits of the municipal area of Bihat Nagar Parishad, no fault can be found with the action of the



respondent whereby the names of the voters have been deleted from the voter-list of Bihat Nagar Parishad.

10. In that view of the matter, I see no merit in this writ petition. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2018
Transmission Date	NA

