

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7393 of 2018

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Nand Kishor, son of Chandrika Yadav, resident of village – Nababganj Road, P.O.
+ P.S. – Makhdumpur, District – Jehanabad.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
2. The Principal Secretary Urban Development and Housing Department, Govt. of Bihar, Patna.
3. The State Election Commission through its Secretary Sone Bhawan 3rd Floor, Birchand Patel Marg, Patna.
4. The Commissioner, State Election Commission, Sone Bhawan 3rd Floor, Birchand Patel Marg, Patna.
5. The District Magistrate-cum-District Election Officer (Municipality), Jehanabad.
6. The Deputy Collector Land Reforms, Jehanabad-cum-election Officer, Nagar Panchayat, Makhdumpur, Jehanabad.
7. The Executive Officer, Nagar Panchayat, Makhdumpur, Jehanabad.
8. Smt. Santoshi Devi, wife of Sri Nandu Manjhi, resident of village – Paleya, Ward No. 4, Nagar Panchayat, Makhdumpur, District – Jehanabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dinesh Kumar, Advocate
For the Respondent/s : Mr. Y.P. Sinha-AAG7

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 15-05-2018

This writ application has been brought by way of

Public Interest Litigation for taking action/removal of

Chairman, Nagar Panchayat, Makhdumpur, Jehanabad who



was elected as Ward Councillor from Ward No. 4, Nagar Panchayat, Makhdumpur in Municipal Election – 2017. It is alleged that the respondent no. 8 being the Ward Councillor has furnished wrong affidavit on oath violating provisions laid down under Section 18 of the Bihar Municipal Act, 2007 read with Rule (2) of the Bihar Municipal Election Rule, as one of the proposer Anil Manjhi got a child after 04.04.2008 which was pointed out to the State Election Commission, Bihar but the same was not considered vide order dated 09.02.2018 stating that the election has been completed.

According to the petitioner, the proposer of respondent no. 8 was disqualified to propose her candidature as got for two children after 04.04.2008 which is illegal and hence acceptance of nomination and declaration of candidature of respondent no. 8 as eligible candidate was in the teeth of sub-clause (gha) of Clause 7 of the Guideline laid down by the State Election Commission, Bihar.

We are afraid the kind of litigation not in form of Public Interest Litigation through this writ application is wholly misconceived. This court while exercising its power under Article 226 of the Constitution in a *pro bono* litigation is not supposed to test the legality and validity of the election of



respondent no. 8 which according to the petitioner, has already held long back.

We are not inclined to entertain the writ application as a Public Interest Litigation. It is dismissed, accordingly.

(Rajendra Menon, CJ.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2018
Transmission Date	.05.2018

