

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.43 of 2019

In

Civil Writ Jurisdiction Case No.15159 of 2017

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Prem Kumar Pandey Son of Late Maninath Pandey Resident of Village-
Barkagaon, P.O.- Mohan Darwa, P.S.- Belaon, District- Kaimur at Bhabhua.

... .. Appellant/s

Versus

1. The State Of Bihar and Ors through the Principal Secretary, Cooperative Department, Government of Bihar, Patna.
2. The Registrar, Cooperative Societies, Bihar, Patna.
3. The District Magistrate-cum-District Education Officer (Cooperative), Kaimur at Bhabhua, District- Kaimur at Bhabhua.
4. The District Cooperative Officer, Kaimur at Bhabhua, District- Kaimur at Bhabhua.
5. The Block Development Officer-cum-Returning Officer, Rampur Block Vyapar Mandal Election, 2007, District- Kaimur at Bhabhua.
6. The Bihar State Election Authority, 32, Harding Road, Patna, through the Secretary.
7. The Chief Election Officer, The Bihar State Election Authority, 32, Harding Road, Patna.
8. The Deputy Secretary, The Bihar State Election Authority, 32, Harding Road, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. S.B.K. Mangalam, Advocate
For the Respondent/s	:	Mr. R.K. Singh, Advocate
For the Election Authority	:	Mr. Mukesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-04-2019

I.A. No. 154 of 2019

Having heard learned Counsel for the parties, we are
satisfied that the delay has been sufficiently explained. The



delay condonation application is allowed. The appeal shall be treated to be within time.

L.P.A. No. 43 of 2019

Heard Shri Mangalam, learned counsel for the appellant. The relief prayed was for quashing the letter dated 9th of October, 2017 whereby an information was tended to the State Election Authority that since the minimum requirement of members are not fulfilled with regard to the election of the Managing Committee of the Rampur Block Vyapar Mandal, appropriate instructions be issued.

The writ petition giving rise to this appeal was entertained but was dismissed observing that in the absence of the required strength of the respective category of members namely, that of the reserved category of Scheduled Caste, Scheduled Tribe, Backward Class and Extremely Backward Class and Women members, the constitution was not permissible.

Learned counsel for the appellant contends that in view of the provisions of the sub-section (2) of Section 14 of Bihar Cooperative Societies Act, read with the Bihar Cooperative Societies Rules, 1959, no order of relaxation had been passed by the State Government which was the obligation



of the respondents and, therefore, the constitution of the Committee cannot be invalidated and the results have to be declared. In essence, the contention of Shri Mangalam is that there is no requirement of the minimum coram and, therefore, even if there is a provision of relaxation, the same cannot be an impediment in the constitution of the Committee and the declaration of the results.

We have considered the submissions raised and also the provisions that have been dealt with and indicated in the impugned judgement.

We find that the question of the Managing Committee being constituted does require the presence of the respective seats in every category. The statutory provision does not specifically indicate the minimum number required, but the fact remains that the category of membership as envisaged for constitution of the Committee has been clearly spelt out. This, therefore, cannot be overlooked. It is for this reason that the power of relaxation has been given to the State Government that in the event of such category of members being not available, the power of relaxation can be exercised in the manner provided therein.

We, therefore, do not find any error in the conclusion



drawn by the learned Single Judge, who has also observed in paragraph No. 15 of the judgement that there is no such order by which the State Government has relaxed the Rule of reservation.

Consequently, this appeal is disposed off with liberty to the aggrieved persons to approach the State Government for any such relaxation pointing out the said situation of non-availability of the category of the members and in the event such representation is made to the competent authority, it shall be open to the State Government to take a decision in this regard and pass appropriate orders, preferably within three months from the date of presentation.

Disposed off.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.04.2019
Transmission Date	N/A

