

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2225 of 2019

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Mahendra Paswan S/o Late Tulsi Paswan aged about 43 years, R/o Mohania
Ward No.12,Paswan Toli,P.S.-Mohania,Dist.-Kaimur at Bhabua

... .. Petitioner

Versus

1. The State Of Bihar through the Chief Secretary,Patna,Bihar.
2. Bihar Election Commission through the chief Election
Commissioner,Bihar,Patna
3. The District Magistrate Cum District Election Officer,Kaimur at Bhabua
4. The District Panchayat Raj Officer, Kaimur at Bhabua
5. Sub -Divisional Officer, Mohania,Kaimur at Bhabua
6. Ashok Kumar Paswan S/o Awadh Bihari Paswan R/o Mohania,Ward No.12
P.S. Mohania,Dist.-Kaimur at Bhabua

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Tribhuwan Narayan, Advocate
For the Respondent/s	:	Mr.Kumar Alok SC 7, Mr. Rakesh Kumar AC to SC -7
For the SEC	:	Mr. Amit Srivastava, Advocate Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-04-2019 The petitioner in this case is aggrieved by the order contained in Memo No. XX 36/12/110 dated 10.2.2018 issued by respondent no. 3 the District Panchayat Raj Officer, Kaimur at Bhabua (Annexure '7' to the writ application) whereby he has refused to interfere with the communication as contained in letter No. IX-17-17/359 dated 13.12.2017 issued by the Sub-Divisional officer, Mohania rejecting the complaint filed by the petitioner with regard to false affidavit allegedly given by respondent no. 5 at the time of nomination for the Ward No.12 Nagar Panchayat, Mohania.



Learned counsel for the petitioner submits that while filling up the Nomination form, respondent no. 5 did not disclose the criminal case which he was facing being Mohania P.S. Case No. 173 of 2006 GR No. 1007 of 2006 for the offence under Sections 341, 323, 385, 379, 506, 427/34 of the Indian Penal Code. In the said case, as back as on 31.05.2014 the learned Chief Judicial Magistrate, Kaimur had taken cognizance. On 28.06.2017 the respondent no. 5 had surrendered in the court of learned C.J.M. and was released on bail.

It is further grievance of the petitioner that no action was taken by respondent authorities on the complaint filed by the petitioner. In this connection, the District Panchayat Raj Officer, Kaimur had also written a letter to the Sub-Divisional officer, Mohania and had recommended for taking action against the respondent no. 5. On 13.12.2017 vide Annexure '6' the Sub-Divisional Officer rejected the complaint saying that it is malicious and the District Panchayat Raj Officer also refused to take further action.

On perusal of Annexure '6' to the writ application it would appear that the Sub-Divisional officer, Mohania considered the complaint of the petitioner and found that in the



year 2006 in connection with a dispute between the Manager of a Hospital and a Film Producer this petitioner had gone to mediate and in this respect one FIR being Mohania P.S. Case No. 193 of 2006 was registered on 15.09.2006. The investigating officer closed the investigation finding no material to proceed against the respondent no. 5 but after about eight years learned Chief Judicial Magistrate took cognizance on 31.05.2014 and issued summons to accused persons including the respondent no. 5. The Sub-Divisional officer found that the summon was received by the respondent no. 5 only on 11.06.2017 and he came to know about the case on the said date, thereafter, he had obtained bail. The complaint was rejected because the nomination paper was filled up and affidavit was sworn by respondent no. 5 in the month of April, 2017 when there was no cognizance and order summoning the respondent no. 5.

Regarding other complaint with respect to the year of the birth again the Sub-Divisional Officer found that it was a clerical mistake which was corrected by the competent authority and a corrected birth certificate had already been issued.

The fact that the Police had submitted a final report is evident from the order dated 19.09.2007 which is part of



Annexure '3' to the writ application. This Court finds no pleading in the writ application controverting the fact that in the said case the Police had submitted a final report and it is only after ten years when the Nomination Papers had already been filled up and affidavit was sworn by the respondent no. 5, the order of cognizance was passed, it was almost ten years after submission of final report. This being the position, this Court finds no error in the impugned orders.

This writ application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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