

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2377 of 2019

Sapana Kumari aged about 30 years (female), W/o Mukund Kumar R/o Village and Post-Khairwa Darp, P.S.-District-Sheohar.

... .. Petitioner

Versus

1. The Chief Election Commissioner Bihar State Election Commission, Patna
2. The District Officer-cum-District Election Officer, Sheohar Panchayat Collectorate, Sheohar
3. The Block Development Officer-cum-Block Election Officer, Sheohar
4. Surabhi Raj W/o Indrajeet Singh R/o Village- Mauze Madhopur Anant Post-Khairwa Darp, P.S. and District- Sheohar
5. Asha Devi W/o Harendra Sahani Resident of Mauza Madhopur Anant P.O.- Khairwadarp, P.S. and District- Sheohar
6. Usha Devi W/o Laxmi Narayan Bhagat Resident of Mauza Madhopur Anant P.O.- Khairwadarp, P.S. and District- Sheohar
7. Kaushalya Devi W/o Nathuni Kumar R/o Village- Shahpur, P.O.- Khairwadarp, P.S. and District- Sheohar
8. Jhalo Devi W/o Shyam Kumar R/o Village Mauza Madhopur Anant P.O. Khairwadarp, P.S. and District- Sheohar
9. Dolly Singh W/o Ram Kishore Singh R/o Village Mauza Madhopur Anant P.O. Khairwadarp, P.S. and District- Sheohar
10. Pushpa Singh W/o Hari Kishore Singh R/o Village Mauze Khairwadarp P.O.- Khairwadarp, P.S. and District- Sheohar
11. Manju Devi W/o Uday Shankar Giri R/o Village Mauze Jaffarpur P.O.- Khairwadarp, P.S. and District- Sheohar
12. Munni Devi W/o Dinesh Sah R/o Village Mauze Jaffarpur P.O.- Khairwadarp, P.S. and District- Sheohar
13. Ramprabha Devi W/o Harishankar Thakur R/o Village- Madhopur Anant P.O.- Khairwadarp, P.S. and District- Sheohar
14. Ripu Singh W/o Nitesh Kumar R/o Village- Madhopur Anant P.O.- Khairwadarp, P.S. and District- Sheohar
15. Bedeami Devi W/o Bhikhari Rai R/o Village Mauze Shahpur P.O.- Khairwadarp, P.S. and District- Sheohar
16. Shanti Devi W/o Ram Vinay Ram R/o Village Mauze Jaffarpur P.O. Khairwadarp, P.S. and District- Sheohar
17. Sharita Devi W/o Prakash Ram R/o Village Mauze Jaffarpur P.O. Khairwadarp, P.S. and District- Sheohar
18. Seema Devi W/o Ajit Kumar Singh R/o Village- Mauze Kharwadarp, P.O.- Khairwadarp, P.S. and District- Sheohar
19. Sonalika Devi W/o Sanjiv Kumar Tiwary R/o Village Mauze Madhopur Anant P.O. Khairwadarp, P.S. and District- Sheohar

... .. Respondents



Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Advocate
Mr. Alok Kumar Jha, Advocate
For the Resp. SEC : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate
Mr. S.K. Mandal (SC-03)
Mr. Ravi Ranjan Kr. Singh, A.C. to S.C.3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 26-04-2019

The petitioner, in this case, is aggrieved by order dated 21.12.2018 passed by Munsif Sheohar in Election Case No. 5/2016 by which the petition filed by the petitioner on 14.09.2018 requesting the court to mark the document and the two volumes of CDs as exhibits on behalf of the petitioner has been rejected.

Learned counsel for the petitioner submits that earlier the petitioner had tried to obtain the relevant document and the CDs by filing an appropriate application before the Block Development Officer, Sheohar vide Annexure-3 to the writ application but it was refused saying that the Videography of the counting has not been prepared in the CDs. In this connection learned counsel has drawn attention of this court towards the communication dated 30.05.2016 as contained in Annexure '3' to the writ application. It is submitted that again vide communication dated 29.08.2018 the petitioner was informed that CD of the Videography of the countings of 2016 Panchayat



Election is not available. Copy of the letter is enclosed together with Annexure '6' to the writ application.

It is his submission that only at a belated stage on 13.09.2018 the petitioner was made available the true volumes of CDs with letter no. 2158 dated 13.09.2018 written by the Public Information Officer – cum Block Development officer, Sheohar, thereupon the petitioner filed an application vide Annexure '7' to the writ application requesting the court to mark the same as exhibits on behalf of the petitioner.

It is submitted that the request of the petitioner has been refused by learned Munsif-cum-Panchayat Election Tribunal on the ground that at this stage when the evidences have already been closed long past and the matter is pending for further hearing of the applicant, the request of the petitioner to accept the documents and mark them as exhibits cannot be accepted.

Relying upon the judgment of this court in the case of ***Ram Naresh Pandey Vs. Sita Ram Yadav & Others reported in (2003) 1 BLJR 732***; learned counsel submits that from a reading of paragraph '13' of the said judgment it would appear that although the Hon'ble court took a view that after the argument was over the court was not in a position to mark exhibits at this



stage but then the court observed that if those documents from the nature are found to be public documents then those can be looked into without even being marked as exhibits for the purpose of coming to a just decision in the case.

Learned counsel has also relied upon the order dated 08.08.2017 passed in CWJC No. 5515/2013 (**Bhupendra Kumar Singh @ Dipu & Anr. Vs. Parwati Devi @ Parwatiya Devi & Ors.**) to submit that the learned coordinate Bench of this court while considering the similar argument upheld the order of the court below accepting some of the documentary evidences and marking of the same as exhibits.

On the other hand, learned counsel representing the State as well as Bihar State Election Commission submit that there is no illegality and infirmity in the impugned order, inasmuch as it would appear that in this case the evidence of the petitioner was closed long back. Further, it is pointed out that in the objection filed by the opponents of the petitioner in the court below it would appear that after closure of evidence, argument on behalf of the parties had also come to an end and in fact the case was at the stage of judgment, thus at this stage the court has refused to accept the request of the petitioner to mark the two CDs exhibits, no fault may be found with the decision of the



court below. It is pointed out that in the case of **Bhupendra Kumar Singh @ Dipu and Anr. (supra)** on which reliance has been placed on behalf of the petitioner, the court below had accepted the documents because at that stage the evidence of the defendant was still going on and the documents were only required to be marked as exhibits. The facts of the present case is, according to learned counsel, clearly distinguishable.

It is further pointed out that in the **Ram Naresh Pandey (supra)** what has been held by this court in paragraph '13' would go against the submission of learned counsel representing the petitioner.

Having heard learned counsel for the parties and on perusal of the records, this court finds that in the present case the two CDs have been sought to be produced as exhibits when the evidences of all the parties were closed long back and the matter had proceeded for hearing and not only proceeded, some of the parties had already finished their arguments and it was at the last stage of submissions. It is evident from the impugned order passed by the court below that the case was fixed for further hearing on behalf of the applicant. After going through the reasoning and rationale provided in the impugned order dated 21.12.2018, this court finds no reason to interfere with the



impugned order in it's supervisory jurisdiction. It is to be kept in mind that though the writ application has been filed under Article 2226 of the Constitution of India, the nature of jurisdiction sought to be invoked is essentially in the nature of the supervisory jurisdiction of the court, thus following the settled principles of law that the supervisory jurisdiction of the court be exercised only when it is found that the order of the subordinate courts or Tribunal suffers from material illegality or perversity. In this case, this court does not find any reason to interfere with the impugned order.

The writ application has, thus, no merit. It is dismissed accordingly.

This would, however, not preclude the petitioner from raising a plea before the court below that in case the court below is satisfied with the nature of the documents being a public documents, it may be looked into. Such will be an independent exercise of discretion of the court below.

(Rajeev Ranjan Prasad, J)

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