

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7687 of 2019

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Arjun Kumar, Son of Sri Hari Yadav, Resident of Village-Rampur, P.S. Bodh
Gaya, District-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj
Department, Government of Bihar, Patna
2. The State Election Commission, Bihar through its Secretary, Sone Bhawan,
3rd Floor, Beer Chand Patel Path, Patna-800001
3. The State Election Commissioner, Bihar, State Election Commission, Sone
Bhawan, 3rd Floor, Beer Chand Patel Path, Patna-800001
4. The District Magistrate cum District Election Officer (Municipality), Gaya
5. The Sub Divisional Officer, Sadar Gaya cum Returning Officer, Nagar
Panchayat, Bodh Gaya, Gaya
6. Dashrath Manjhi Son of Late Ram Briksh Manjhi Resident of Village-
Rampur, P.S. Bodh Gaya, District-Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shailesh Kumar, Advocate
For the State	:	Mr. Vijay Bharti, A.C. to S.C. 7
For the Election Commission:		Mr. Amrit Shrivastava, Advocate
		Mr. Girish Pandey, Advocate

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date : 25-11-2019

Heard learned counsel for the parties.

2. An order passed by the State Election Commission, Bihar, dated 21.01.2019, in Case No. 49 of 2018, has been put to challenge in the present writ application. It transpires from the impugned order that election of respondent No. 6 as Ward Councilor, was also put to challenge before the State Election Commission, on the ground of his disqualification to contest the election, since according to the petitioner, more than two children



were born to him after 04.04.2008, which is a disqualification for a person to contest the election of Ward Councilor.

3. The State Election Commission has reached a conclusion that Respondent No.6 has six children, but all born before 04.04.2008.

4. Learned counsel appearing on behalf of the petitioner has submitted that the State Election Commission has, while passing the impugned order, failed to consider relevant materials including the Certificates issued by the Headmaster of the School, which conclusively suggests that the children were begotten after 04.04.2008. He has contended that there were adequate evidence before the State Election Commission for arriving at a conclusion that respondent No. 6 was disqualified to contest the election for, he had more children than two born after 04.04.2008.

5. I have perused the impugned order. The State Election Commission has taken into account the evidence available before him and has appreciated them and after weighing the evidence adduced on behalf of the parties, has reached the conclusion as noted above.

6. On the basis of the averments made in the writ application, a disputed question of fact as to whether the children



were born to respondent No. 6 after 04.04.2008, cannot be adjudicated upon in a proceeding under Article 226 of the Constitution of India. In no event, the findings recorded in the impugned order can be said to be perverse, requiring this Court's interference in the present proceeding on judicial review.

7. This writ application is, accordingly, dismissed.

8. It goes without saying that the petitioner shall be at liberty to question the validity of election of respondent No. 6 in an appropriate forum, but in accordance with law.

(Chakradhari Sharan Singh, J)

S.Ali/-

AFR/NAFR	NAFR
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