

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8260 of 2019

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Tahira Khatoon W/o Md. Rayees, Resident of Yasin Colony, Bari Road, P.S.-
Civil Line, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Principal Secretary, Urban Development Department, Government of Bihar, Patna.
3. The Election Commissioner, Bihar State Election Commission, Sone Bhawan, Birchand Patel Path, Patna.
4. The Joint Election Commissioner, Bihar State Election Commission, Sone Bhawan, Birchand Patel Path, Patna.
5. The District Magistrate, Gaya Cum District Election Officer (Nagar Palika), Gaya.
6. The Election Officer, Municipal Corporation Gaya Cum Additional Collector, Gaya.
7. The DIG of Police, Gaya Range, Gaya.
8. The Senior Superintendent of Police, Gaya.
9. The Registrar, Birth and Death Municipal Corporation , Gaya.
10. Kahkashan Mahjabeen, Wife of Khatib Ahmad Khan Resident of Durgabari Colony, Bari Road, P.S. Civil Line, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Roona, Advocate
For the Respondent/s : Mr.Subash Prasad Singh (GA-3)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 25-11-2019 Heard learned counsel for the parties.

2. The petitioner had put to challenge election of Respondent No.10 as Ward councillor of Ward No. 23 of Gaya Municipal Corporation, mainly on the ground that she was disqualified to contest the very election as she had more than two children born after 04.04.2008. The said plea of the



petitioner has been rejected by the State Election Commissioner, Bihar by an order dated 24.01.2019 passed in Case No. 18 of 2019 with his finding that the petitioner could not produce any concrete proof to establish that any child was born to the respondent No.10 after 04.04.2008.

3. Ms. Ronna, learned counsel appearing on behalf of the petitioner has submitted that the State Election Commissioner has failed to duly appreciate the evidence, both oral and documentary, which were produced by the petitioner before him in support of the plea that respondent No.10 had more than two children, who were born after 04.04.2008. She has also submitted that there was specific report of the Additional Collector, Gaya to the effect that respondent No.10 had submitted a false statement on oath before the Returning Officer on the point of proof of children which she had but the State Election Commissioner failed to appreciate, in correct perspective, the said material which was there before him.

4. I have carefully perused the impugned order. The State Election Commissioner has recorded, after weighing the evidence on record that the petitioner could not establish the claim of disqualification of respondent No.10. The findings recorded by the State Election Commissioner cannot be said to



be contrary to any evidence, which appeared to have been produced before him. In any view of the matter, the disputed question of fact whether the children were begotten after 04.04.2008 cannot be gone into a writ proceedings under Article 226 of the Constitution of India.

5. I do not consider it to be a fit case, requiring this Court's interference in a proceeding of judicial review.

6. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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