

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10167 of 2016

Kalindi Devi Wife of Bishundutt Pathak Resident of Village- Kusmi, P.O. Pauthu, P.S. Pauthu, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commissioner, The State Election Commission Panchayat , Sone Bhawan, Birchand Patel Path, Patna
3. The Secretary, The State Election Commission Panchayat , Sone Bhawan, Birchand Patel Path, Patna.
4. The District Magistrate, Aurangabad-cum-District Election Officer Panchayat, Aurangabad, District- Aurangabad
5. The Block- Development officer-cum- Returning Officer Panchayat Election, 2016, Rafiganj Block, District- Aurangabad
6. Ajmeri Khatoon, Wife of Sultan Khan Resident of Village- Fesra, P.O. Lahsa, P.S. Pauthu, District- Aurangabad.
7. Anita Devi-1, wife of Jagat Narayan Sharma, resident of village – Fersa, Tole- English, P.O. Temura, P.S. Pauthu, District – Aurangabad.
8. Anita Devi-2, wife of Pradeep Chauhan, resident of village – Itar, P.O. Temura, P.S. Pauthu, District – Aurangabad.
9. Urmila Devi, wife of Dev Nandan Yadav, resident of village Rampur Parsiya, P.O. Indar, P.S. - Pauthu, District – Aurangabad.
10. Kunti Devi, wife of Basant Rabbani, resident of village Makhdumpur, P.O. and P.S. Pauthu, District – Aurangabad.
11. Chanchala Devi, wife of Dilip Kumar, resident of village – Kusmi, P.O. and P.S. Pauthu, District – Aurangabad.
12. Phul Kumari Devi, wife of Dinanath Singh, resident of village – Barbansha, P.O. Lahsa, P.S. Pauthu, district – Aurangabad.
13. Manorma Devi, wife of Rabindra Ravidas, resident of village Fersa, P.O. Lahsa, P.S. Pauthu, District – Aurangabad.
14. Malti Devi, wife of Jitendra Singh, resident of village Kusmi, P.O. and P.S. Pauthu, District Aurangabad.
15. Menika Kumari, wife of Dharmenda Kumar, resident of village Sahpur, P.O. Indar, P.S. Pauthu, District Aurangabad.
16. Shobha Devi, wife of Nagendra Yadav, resident of village Itar, P.O. Indar P.S. Pauthu, District Aurangabad.
17. Srimati Devi, wife of Mahenda Mistri, resident of village Rampur Parsiya, P.O. Indar P.S. Pauthu, District Aurangabad.
18. Sabita Devi, wife of Jugeshwar Chauhan, resident of village Itar, P.O. Temura P.S. Pauthu, District Aurangabad.



19. Sita Devi, wife of Umesh Kumar, resident of village Sahpur, P.O. Temura, P.S. Pauthu, District Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.S.B.K.Manglam, Advocate
For the SEC : Mr. Sanjeev Nikesh, Advocate
For the State : Mr. Uday Bhan Singh, A.C. to G.P.19

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 16-04-2019 Heard learned counsel for the petitioner and learned counsel representing the Bihar State Election Commission and the State.

Mr. S.B.K. Mangalam learned counsel for the petitioner submits that he is pressing the writ application with only concern that in future similar kind of illegalities and irregularities should not be allowed to be happened at the hand of Returning Officer.

Learned counsel submits that in Form '9' as contained in Annexure 1 to the writ application issued by respondent no 5, the petitioner was allotted a symbol of "Brinjal" ('Baigan'), but when the election was held on 18.05.2016, it came to the notice of the petitioner that the ballot paper printed for the purpose of election was wrongly printed and in front of the name of the petitioner, symbol was printed as '*Pool*' in place of 'Brinjal'. It is submitted



that the symbol 'Brinjal' was printed in front of the name of one Kunti Devi which created some kind of confusion in the mind of the voters of the constituency.

Learned counsel for the State has opposed the prayer of the petitioner. He has referred letter no. 1011 dated 26.05.2016 written by the Block Development Officer Rafiganj to the District Panchayat Officer, Aurangabad in which he has clarified that form '9' which has been brought on record by the petitioner has not been issued from the office of the Block Development Officer. In paragraph 13 of the counter affidavit a statement has been made that Annexure '1' of the writ application has not been issued by him.

Having heard learned counsel for the petitioner and learned counsel for the Bihar State Election Commission as also learned counsel for the State, this court is of the considered opinion that the reliefs, as prayed in the writ application, cannot be granted by a writ court. Mr. Mangalam has though confined his prayer to the extent that the matter should now be referred to the State Election Commission for consideration and for taking a view on the



complaint of the petitioner, this court finds no reason to give such a direction when the court finds that the election to the post of Mukhiya of the Gram Panchayat Raj, Itar has not been challenged by filing an election petition in accordance with the constitutional mandate and the law on the subject.

So far as the grievance of the petitioner with regard to mistake in printing of symbol is concerned, the petitioner is free to bring it to the notice of the State Election Commission and the State Election Commission is obliged to look into that and take remedial measures, if it is found that the mistake was committed in printing of the ballot papers.

It is however not be taken as any expression of opinion by this court on the merit of the contention of the petitioner.

This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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