

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10986 of 2019

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Mantu Kumar, aged about 37 years (Male) S/o Ram Nath Rai Resident of
Village- Daulatpur, P.S.- Bikram, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through Election Commissioner, Bihar, Patna.
2. The Election Commissioner, Bihar, Patna.
3. The Chief Election Officer Bihar, Old Secretariat, Patna.
4. The Collector of District Patna cum Returning Officer, Patna.
5. Election Officer - 31 Patliputra Parliament Constituency, Third Floor Vikas Bhawan Patna Collectorate, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Arvind Kumar, Advocate
For the Respondents	:	Mr. Siddhartha Prasad
		Mr. Om Prakash Kumar,
		Mr. Sunil Kumar
		Mr. Kaustubh, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 15-05-2019

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

2. The present writ petition has been filed –

*“For quashing the symbol allotted to petitioner
and for issuance of writ commanding respondents to allot
“Water bottle” symbol of registered political party namely
“Asli Desi Party” for purpose of contesting election for
Member of Parliament from Patliputra Parliamentary
Constituency and also for extending the date of election
scheduled to be held on 19.05.2019.”*

3. Learned counsel for the petitioner submits that the
petitioner is a candidate of “Asli Deshi Party” for contesting the
election for the Patliputra Parliamentary Constituency. Accordingly, he
filled up his nomination paper describing himself as a member of “Asli



Deshi Party” which was allotted the symbol “Bottle”. Subsequently, however, the petitioner has been treated as an independent candidate and allotted “Water Tank” as symbol. It is submitted that owing to no fault of the petitioner, great prejudice has been caused as allotment of “Water Tank” as symbol to the petitioner as an independent candidate has confused the electorate. A representation dated 04.05.2019 was filed before the respondent no. 3 for change of the symbol from “Water Tank” to “Bottle” but the same was rejected.

4. Learned counsel for the Respondent Election Commissioner appears and opposes the writ petition, submitting that there is no error on the part of the respondents in treating the petitioner as an independent candidate and allotting “Water Tank” as symbol. Reference is invited to Clause 13 of the Election Symbols (Reservation & Allotment) Order, 1968 which provides the conditions to be fulfilled before a candidate shall be deemed to be set up by a political party in any such parliamentary or assembly constituency, *inter alia*, requiring Forms A and B to be signed, in ink only, by the office bearer and the person authorized by the party. The proviso thereto clearly stipulates that no facsimile signature or signature by means of rubber stamp etc. of authorized person shall be accepted and no form transmitted by fax shall be accepted. It is pointed out from the check-list of documents issued to the petitioner that only photo copies of Forms A and B have been submitted. As such, the petitioner was rightly treated as an independent candidate and symbol of “Water Tank” was allotted to him.



5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court is not inclined to interfere in the matter. It is not in dispute that a check-list of documents was issued to the petitioner, according to which only photo copies of Forms A and B had been furnished by the petitioner which clearly failed to satisfy the requirements of Clause 13 of the Election Symbols (Reservation & Allotment) Order, 1968. In such a situation, the respondents cannot be faulted for the impugned action in treating the petitioner as an independent candidate and allotting a symbol different from the symbol allotted to “*Asli Deshi Party*”.

6. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

BT/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.05.2019
Transmission Date	N.A.

