

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.329 of 2018**

**In**

**Civil Writ Jurisdiction Case No.1589 of 2017**

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Musharat Khatoon Wife of Md. Hasiruddin, Resident of Village and P.O. Biratpur, P.S. Sonebarsa, District-Saharsa, Presently Mukhiya of Gram Panchayat Raj, Biratpur, Block-Sonebarsa, District-Saharsa.

... .. Appellant/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 Patna.
3. The Secretary, The State Election Commission Panchayat, Sone Bhawan, Birchand Patel Path, Patna.
4. The District Magistrate-Cum-District Election Officer Panchayat, Saharsa, District-Saharsa.
5. The Sub-Divisional Officer, Sadar Saharsa, District-Saharsa.
6. The Executive Magistrate, Sadar Saharsa, District-Saharsa.
7. The Circle Officer, Sonebarsa, District-Saharsa.
8. The District Magistrate-Cum-District Election Officer Panchayat, Khagaria, District-Khagaria.
9. The Circle Officer, Alauli Block, District-Khagaria.
10. Shambhu Singh, Son of Late Suresh Prasad Singh, Resident of Village and P.O. Biratpur, P.S. Sonebarsa, District-Saharsa.

... .. Respondent/s

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**Appearance :**

|                     |   |                                 |
|---------------------|---|---------------------------------|
| For the Appellant/s | : | Mr. S.B.K. Mangalam, Adv.       |
| For the SEC         | : | Mr. Amit Shrivastava, Adv.      |
|                     |   | Mr. Sanjeev Nikesh, Adv.        |
| For the State       | : | Mr. Mritunjay Kumar, AC to AAG6 |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)**

**Date : 22-10-2019**

Heard learned counsel for the parties.



The issue of power in jurisdiction of the Election Commission has been deliberated and delineated in LPA No. 566 of 2017 (Rajani Kumari Vs. The State Election Commission & Ors.) and other analogous cases.

The present appellant has approached this Court challenging the jurisdiction of the Election Commission to decide the issue relating to issue of caste which was declared in his nomination paper relating to election of Mukhiya.

The challenge of jurisdiction of Election Commission has been made at the threshold, on that account, the Election Commission, in view of the pendency of the aforesaid L.P.A., has not decided the case on merit.

Accordingly, the matter is again remanded back to the Election Commission to decide the issue involved in the present case in terms of the judgment and order passed in the case of Rajani Kumari (supra).

Let the parties should present themselves on 18.11.2019 at 4 PM and the Election Commission will decide the issue within a period of 45 days from the date of first appearance.

The appellant will be at liberty to raise all the points including the jurisdiction of Election Commission and, in turn, the Election Commission will be obliged to decide all the issues raised



by the parties in terms of the order of the Full Bench. The Election Commission will not consider the view that has been taken by the Hon’ble Single Judge.

With the aforementioned observation, this appeal is disposed of.

**(Shivaji Pandey, J)**

**( Partha Sarthy, J)**

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