

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15010 of 2019

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Pawan Kumar Agrawal Son of Ratan Lal Agrawal Resident of Village-Ward
No. 9, Thakurwari Road, Bahadurganj, P.S.-Bahadurganj, District-Kishanganj
... .. Petitioner/s

Versus

1. The State of Bihar through the Panchayati Raj Dept., Government of Bihar, Patna
2. The Principal Secretary Urban Development and Housing Dept., Government of Bihar, Patna
3. Bihar State Election Commission Sone Bhawan, Birchand Patel Path, Patna through its Secretary, Bihar, Patna
4. District Magistrate cum District Election Officer, Kishanganj
5. Deputy Collector Land Reforms, cum Enquiry Officer, Kishanganj
6. Bahadurganj Nagar Panchayat through its Executive Officer, District-Kishanganj
7. Hari Mohan Singh, son of Late Jama Lal Singh, R/o Ward No. 18, Bahadurganj Nagar Panchayat, Post Office and P.S.- Bahadurganj, District-Kishanganj

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rabindra Kumar Priyadarshi, Advocate Mr. Apurva Kumar, Advocate Mr. Tushar Vaibhav, Advocate
For the Respondent/s	:	Mr.Yogendra Pd. Sinha (Aag7)
For Res. No. 6	:	Mr. Nityanand Mishra, Advocate
For SEC	:	Mr. Sanjeev Nikesh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 14-11-2019 Interlocutory Application No. 01 of 2019 has been

filed by the proposed intervenor to allow him to be added as

respondent no. 7 in this writ application.

There is no objection to I. A. No. 01 of 2019. Let it be

allowed and the proposed intervenor is added as party

respondent no. 7 in the writ application.

Learned counsel for the parties have been heard.



It appears that the present writ application has been filed for quashing the Memo No. 921 dated 12.07.2019 issued under the signature of the District Magistrate-cum-District Election Officer (respondent no. 4). By the impugned memo, the cast certificate issued by the Circle Officer, Bahadurganj has been held to be incorrect and the District Magistrate has taken a view that the cast certificate issued under the signature of the Circle Officer, Bahadurganj is required to be cancelled.

It further appears from the records that this petitioner had contested the Municipal Election for the post of Ward Councilor from Ward No. '9' of the Bahadurganj Nagar Panchyat. He was declared elected. While filing his nomination, the petitioner had declared himself belonging to most backward cast 'Sinduri Baniya' and in this regard he had produced a cast certificate issued by the Circle Officer, Bahadurganj. Copy of the cast certificate is Annexure '1' to the writ application. Thereafter, the intervenor respondent no. '7' lodged a complaint against him before the Bihar State Election Commission alleging that the petitioner had contested the election on a wrongly and illegally procured cast certificate.

It is stated that during pendency of the complaint before the State Election Commission, the respondent no. '7'



filed a representation before the District Magistrate for cancellation of the cast certificate of the petitioner. On his complaint before the District Magistrate, an inquiry was constituted and the same is said to be pending. Thereafter, respondent no. '7' once again filed a complaint before the District Magistrate and this time a show cause notice was issued to the petitioner. The petitioner filed his reply before the Collector who also happens to be the District Election Officer. Ultimately, the Collector being the District Election Officer has passed the impugned order and based on that the cast certificate of the petitioner has been cancelled.

A counter affidavit has been filed on behalf of the District Magistrate-cum-Collector, Kishanganj. It is stated in the counter affidavit that regarding the cast certificate of this petitioner a complaint was received which was inquired by the then Deputy Collector, Land Reforms who submitted a report on 31.07.2017 mentioning therein that 'Vaishya Baniya' has not found mentioned in Annexure- I and II of Backward Classes of Government. It is further stated that the petitioner was called upon to submit documents in support of his claim but he did not submit any basis of the declaration of his caste.

A perusal of the counter affidavit of the District



Magistrate would show that the dispute with regard to the cast certificate of the petitioner was not referred to the Cast Scrutiny Committee.

Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Apex Court in the case of **Kumari Madhuri Patila & Ors. Vs. Additional Commissioner, Tribal Development and Ors.** reported in **1994 (6) SCC page 241**. Paragraph '13' of the said judgment deals with the procedure required to be followed in the matter of issuance of social status certificates, their scrutiny and their approval. The Hon'ble Apex Court has directed the State government to constitute a committee of three officers namely, (I) an Additional or Joint Secretary or any officer higher in rank of the Director of Department concerned, (ii) The Director, Social Welfare / Tribal Welfare/Backward Class Welfare, as the case may, and (iii) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificates.

It is the submission of learned counsel for the petitioner that the Hon'ble Apex Court has laid down procedure required to be followed by the Cast Scrutiny Committee in the matter of inquiry to be conducted while scrutinizing a cast



certificate but in the present case the cast certificate of the petitioner was not inquired into by the Scrutiny Committee.

Learned counsel for the respondent no. '7' does not dispute this position and submits that in view of the judgment of the Hon'ble Apex Court, the matter may be sent to the District Election Officer once again to bring the matter to the notice of the Cast Scrutiny Committee and then the Cast Scrutiny Committee may inquire into the cast certificate of the petitioner and submit a report with respect thereto.

Having heard learned counsel for the parties and on perusal of the records, in view of the facts appearing and the submissions made at the Bar, this Court finds that the impugned order as contained in Memo No. 921 dated 12.07.2019 issued under the signature of the District Magistrate-cum-District Election Officer (respondent no. '4') and the consequential order as contained in Memo No. 719 dated 20.07.2019 issued under the signature of the Circle Officer, Bahadurganj are liable to be set-aside and those are accordingly, set-aside. The matter is remitted to the District Election Officer, Kishanganj with a direction to refer the matter to the Cast Scrutiny Committee for scrutiny of the cast certificate of the petitioner in accordance with law and judicial pronouncements on the subject within a



period of one month from the date of receipt/production of a copy of this order. The Cast Scrutiny Committee shall submit its report within a period of three months from the date of receipt of the reference. On receipt of the report from the Cast Scrutiny Committee, the Bihar State Election Commission (respondent no. 3) shall proceed with the matter and shall pass an appropriate order in accordance with law.

The writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

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