

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1635 of 2019
In
Civil Writ Jurisdiction Case No.23889 of 2019**

=====

Rajendra Prasad Yadav, Son of Late Lakshmi Narayan Mandal, Resident of Village and P.O.- Chauraha, P.S. Shankarpur, District- Madhepura, presently Mukhiya of Gram Panchayat Raj, Maura Jharkaha, Block- Shankarpur, District- Madhepura.

... .. Appellant

Versus

1. The State of Bihar through the District Magistrate, Madhepura.
2. The District Magistrate-cum-District Election Officer (Panchayat), Madhepura, District- Madhepura.
3. The Block Development Officer-cum-Returning Officer (Panchayat) Shankarpur Block, District- Madhepura.
4. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
5. Usiya Devi Wife of Kamleshwari Yadav Resident of Village and P.O.- Jharkaha, P.S.- Shankarpur, District- Madhepura.
6. Kundan Kumar Son of Kapileshwar Prasad Yadav Resident of Village and P.O. Chauraha, P.S. Shankarpur, District- Madhepura.
7. Md. Mamum Rashid, Son of Late Abdul Hakim, Resident of Village- Garha Rahmanpur, P.O. Jharkaha, P.S. Shankarpur, District- Madhepura.

... .. Respondents

=====

Appearance :

For the Appellant	:	Mr. S.B.K. Manglam, Mr. Anita Kumari, Advocate
For State Commission	:	Mr. Amit Shrivastava, Mr. Girish Pandey, Advocate
For the State	:	Mr. Pushkar Narain Shahi, AAG 6
For Respondent No. 7	:	Mr. Nand Kumar Sagar, Mr. Prasant Sinha Mr. Md. Modassie Shams, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER**

(Per: HONOURABLE THE CHIEF JUSTICE)



2 17-12-2019

This Letters Patent Appeal is directed against the judgment and order dated 03.12.2019 passed by the learned Single Judge in CWJC No. 23889 of 2019 whereby and whereunder the learned Single Judge dismissed the writ petition filed by the appellant affirming the judgment and order dated 18.11.2019 passed by the learned Munsif 1st, Madhepura in Election Petition No. 02 of 2016.

We have heard Mr. S.B.K. Manglam on all counts including the perversity, which he seeks to highlight in the impugned judgment dated 03.12.2019 passed by the learned Single Judge.

Having heard learned counsel for the parties, we are of the considered view that there is no perversity whatsoever in the impugned judgment. Concurrently, the authority/court below has opined that it is not a fit case in which any direction can be issued by the court stopping recounting of votes, which is necessarily required for compliance of statutory provisions.

Mr. Manglam emphatically relied upon the provisions of Order XX Rule 5 of the Code of Civil Procedure.

We notice from the order passed by the court below, that principle for recounting the votes under the Election Law, stood culled out and the reasons assigned are based on complete



and correct appreciation of materials on record, which the learned Single Judge on facts found it to be correct, and as such impugned order is legally sustainable. As such, we dismiss the appeal.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

BT/-

U			
---	--	--	--

