

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5700 of 2020

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Gita Devi, W/O- Sri Avinash Kumar Singh, resident of - Village- Aropur,
P.O.- Amarpura, Naubatpur District- Patna.

... .. Petitioner.

Versus

1. The State of Bihar through the Secretary, Urban Development and Housing Department, Government of Bihar, New Secretariat Building, Patna.
2. The Secretary, Bihar State Election Commission, Bihar, Patna.
3. The District Electoral Officer-cum- District Magistrate, Patna.
4. The Sub-Divisional Officer, Danapur.
5. The Chief Executive Officer, Naubatpur Nagar Panchyat, Naubatpure.

... .. Respondents.

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Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Advocate.
		Mr. Bishwa Bibhuti Kumar Singh, Advocate.
For the State	:	Mr. Shankar Kumar, AC to AAG-7.
For the Respondent No.2:		Mr. Amit Srivastava, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 27-05-2020

The proceeding of the court are being conducted through video-conferencing and the advocates and staff join the proceeding through video-conferencing from their residence.

Learned counsel for the petitioner undertakes to remove the defect as pointed out by the office within one week after normal functioning of the court after lockdown, failing which office is directed to place the matter before the Bench for appropriate order.



The petitioner, by way of filing this writ application, has approached this Court for a direction to the respondents to fix a date for taking oath and affirmation of all 15 elected Councillors (Parsad) of the Naubatpur Nagar Panchayat, Naubatpur and thereafter, subsequently, holding election of Chief Councillor and Deputy Chief Councillor of Nagar Panchayat as all 15 Councillors have already been elected on 23.02.2020 in view of letter no. Na Ni.-50-11/2017-179/dated 28.01.2020 and in view of letter no. 477/Nirwa., Patna, dated 29.04.2020 (Annexure-1) issued by the respondent no. 3, the District Magistrate, Patna.

Learned counsel for the petitioner submits that the election of councillors of Nagar Panchayat, Naubatpur was held on 22.02.2020 after following due procedure and 15 members as Ward Councillors of 15 wards of Naubatpur Nagar Panchayat have been elected on 23.02.2020 and the petitioner has been elected as a Ward Councillor/Parshad of Ward No.10 of the Naubatpur Nagar Panchayat along with other 14 Councillors and have been notified. The oath and affirmation of the Councillors/Parshad as well as the election of Chief Councillor and Deputy Chief Councillor was to be held on 30.03.2020 and for this purpose the Sub-Divisional Officer, Danapur (respondent no.4) was nominated/notified as Electoral Officer. However, in the meantime, on 24.03.2020, the



respondent no.2 issued a letter as contained in Memo No.Pa.Ni.50-24/2019-602, dated 24.03.2020 (Annexure-3 to the writ application) to the Secretary UD & HD, Government of Bihar, Patna to postpone the oath and affirmation of the elected members/Parshad as well as election of the Chief Councillor and Deputy Chief Councilor of the Naubatpur Nagar Panchayat and further requested for appointment of an Administrator under Section 12 (9) of the Bihar Municipal Act, 2007 with effect from 30.03.2020. He further submits that an office order, as contained in Memo No.661/Nirwa, Patna dated 29.04.2020 (Annexure-4 to the writ application), has been issued by the respondent no.3 by which an Administrator has been appointed with effect from 29.04.2020. However, no action has been made for fixing a date for oath and affirmation of the councillors/Parshad of the Panchayat in spite of the fact that all offices of Block/Sub-divisional/ District/Nagar Nikay have been opened with effect from 20.04.2020 maintaining social distancing as such the purpose as well as the aims and objectives of the Bihar Municipal Act as well as provisions of Article 243 of the Constitution of India being deferred. He also submits that vide Memo No.661/Nirwa, Patna dated 29.04.2020 has been issued for appointment of an Administrator under Section 12 (9) of the Act, but Section 12 (9) is



applicable where the general election of a Municipality has not been held but, in the present case, general election has already been held and even notified as per Annexure-2 of the writ application. Now, the only purpose of Section 15 of the Act has to be achieved by taking oath and affirmation of Ward Councillor of the Nagar Panchayat as per Section 15 (3) of the Act and this procedure must be completed within a period of three months of the date on which his term of office commences otherwise his/her seat shall be deemed to have become vacant. Hence, this writ application.

Having heard the parties, in my considered opinion, no purpose would be served in keeping the writ application pending. Accordingly, I direct the respondent no.3-the District Electoral Officer-cum-District Magistrate, Patna to fix a date of taking oath and affirmation ceremony of Ward Councilors of 15 Wards of Naubatpur Nagar Panchayat as also holding election of Chief Councilor and Deputy Chief Councilor within a period of three weeks from the date of receipt/production of a copy of this order before him. It is relevant to mention here that all the processes shall be done in strict compliance of norms of the social distancing and/or the guidelines issued by the Government of Bihar in this regard from time to time.



With the aforesaid observation and direction, this writ application stands disposed of.

(Anjani Kumar Sharan, J)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.06.2020
Transmission Date	NA

