

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7594 of 2020

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Anil Kumar Singh @ Anil Singh, Son of Late Mahendra Prasad Singh
Resident of Mohalla- Vijay Nagar Near Mahendra Hotel, P.O.- Banka, P.S.-
Banka, District- Banka.

... .. Petitioner/s

Versus

1. The Bihar State Election Commission through its Commissioner, Bihar, Patna.
2. The Secretary, Bihar State Election Commission, Bihar, Patna.
3. The District Magistrate-Cum- District Election Officer (Municipality), Banka, District- Banka.
4. The President-Cum- Deputy Development Commissioner, Enquiry Committee, Banka, District- Banka.
5. The Executive Officer, Nagar Parishad, Banka.
6. Santosh Kumar Singh, Son of Satyadev Narayan Singh, Resident of Mohalla- Babu Tola, Ward No. 8, P.S. Banka, District- Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate.
Mr. Ansul, Advocate.
Mr. Sagar Suman, Advocate.

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 14-09-2020 Petitioner has prayed for the following relief:

“(A) A Writ in the nature of Certiorari or any other appropriate writ order/s direction quashing the following:

(i) The order dated 28.02.2020 passed by the State Election Commissioner, Bihar, in Case No. 01/2020 holding the Petitioner to be disqualified for holding the office of ward councillor from ward No. 18 and Office of Vice Chairman of Banka Nagar Parishad,



Banka (hereinafter referred to as “the Parishad”) in exercise of the power conferred upon him under section 18(2) of the Bihar Municipal Act 2007 (hereinafter referred to ‘the Act’), and holding the office of the ward commissioner from ward no 18 to be vacant, directing for taking necessary step for filing of said Vacant office and for taking necessary action u/s 447 of the Act. (Annexure-10).

(ii) The order dated 20.03.2020 passed by the District Magistrate, Banka as contained in the letter No.490 directing the Executive Officer, Banka Nagar Parishad to lodge First Information Report for offence under Section 447 of the Act against the Petitioner. (Annexure-11).

(B) A writ in the nature of mandamus or any other appropriate writ order/s direction commanding the respondent for the following:-

(i) To hold order as contained Annexure-10 and Annexure-11 to be nullity and non-est in the eye of law.

(ii) To Restrain the Respondent from giving effect of the order Contained Annexure -10 and Annexure-11 of the writ Petition.

(iii) To restrain the respondents from interfering with the functioning of the petitioner as ward councillor from Ward No. 18 and Vice Chairman of the Nagar Parishad, Banka.

(iv) To restrain the Executive Officer of the Parishad from complying with the order contained in Annexure-10 of the petition by not Lodging the First Information Report under Section 477 of the Act.

(v) To declare/hold provision of Section 18(1)(K) of



Bihar Municipal Act, 2007 (hereinafter referred as 'the Act') to be ultra-vires.

(vi) In alternative to hold that the case of the petition does not come within the ambit of the Provision of Section 18(i)(K).

(C) Any other relief/s of which the petitioner is found entitled to.”

When the matter is taken up, Mr. Yogesh Chandra Verma, learned Senior Counsel appearing for the petitioner, fairly prays to withdraw the present petition reserving liberty to approach this Court on the same and subsequent cause of action, if so required.

Also, liberty is reserved to make a mention before the mentioning Bench for early listing of the petition which may be filed by the petitioner.

It stands clarified that we have not expressed any opinion on the merits of the matter.

Petition stands disposed of.

Interlocutory application, if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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