

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8603 of 2020

Subodh Kumar S/o Late Umesh Prasad R/o Mohalla-Old Jakkanpur, Janta Road, Post-G.P.O., P.S. Gardanibagh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department, Government of Bihar, Patna.
2. The Chief Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi.
3. The Secretary, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi.
4. The Chief Election Commission, Bihar, Patna.
5. The Secretary, Bihar State Election Commission, Patna (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Subodh Kumar, Adv
For the Respondent/s	:	Mr. P.K. Verma AAG-3
For the Election Commission	:	Mr. Siddharth Prasad, Adv

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 19-10-2020

Heard learned counsel for the petitioner and learned
counsel for the respondents.

Petitioner has prayed for the following relief(s):-

“For issuance of appropriate writ/writs, order/orders, direction/directions or in the nature of certiorari for quashing the letter no. ECI/PN/64/2020 dated 25.09.2020 (Annexure-1) issued by the Election Commission of India, New Delhi (respondents 2 and 3) by which Bihar Assembly Election 2020 is going to be held since 28.08.2020.”



The issue raised in this writ petition stands decided by this Court in CWJC No. 7206 of 2020 (Badri Narayan Singh Vs. The Ministry of Home Affairs) and CWJC No. 7294 of 2020 (Jai Vardhan Narayan, Advocate Vs. Election Commission of India), operative portion of which reads as follows:-

“Summary of the Law

(1) The Election Commission is the sole authority responsible for the conduct of elections, including the decision on the schedule of the election. The ultimate decision on when to hold elections lies with the Commission. It cannot be assumed that the Election Commission has taken/ or would take its decision without considering the prevailing situation. The Commission cannot be directed to act in any-what-way by any authority.

(2) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections. However, anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.

(3) The High Court must be reluctant in interfering in the elections especially where it would result in a postponement of elections even where it is not expressly barred under Article 329 of the Constitution.

(4) Subject to the above, the action taken, or orders issued by the Election Commission are open to judicial review on the well-settled parameters which enable judicial



review of decisions of bodies in an established case of mala fides; gross arbitrary/ abuse or exercise of power; or the body shown to have acted in breach of fundamental principles of law.”

In view of judgment as referred above, the present writ petition is dismissed in same terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.10.2020
Transmission Date	NA

