

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5464 of 2021

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The State Election Commission, Bihar through its Secretary, Yogendra Ram (Male), aged about 59 years, Son of Late Bihari Das, having its office 3rd Floor, Sone Bhawan, Veerchand Patel Marg, Bihar, Patna 800001.

... .. Petitioner/s

Versus

1. The Election Commission of India through its Chief Election Commissioner, Election Commission of India, Nirwahan Sadan, Ashoka Road, New Delhi-110001.
2. The Election Commission of India through its Secretary, Election Commission of India, Nirwahan Sadan, Ashoka Road, New Delhi- 110001.
3. The Chairman-cum-Managing Director, Electronic Corporation of India Ltd., EMSD, ECIL, EVM Manufacturing Unit, MCU, IDA Cherapalli Phase- II, Post- HCL, Hyderabad, Telangana- 500062.
4. The Executive Director (Nuclear and EMSD), Electronic Corporation of India Ltd., EMSD, ECIL, EVM Manufacturing Unit, MCU, IDA Cherapalli Phase- II, Post- HCL, Hyderabad, Telangana- 500062.
5. The Union of India through Secretary, Panchayati Raj Department, Government of India, New Delhi.
6. The State of Bihar through Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Shri Amit Shrivastava, Sr. Advocate Shri Sanjeev Nikesh, Advocate
For the E.C.I.	:	Shri Siddhartha Prasad, Advocate Shri Om Prakash Kumar, Advocate Shri Sunil Kumar, Advocate
For the UoI	:	Dr. K. N. Singh, ASG Shri Ravindra Kumar, Sharma, CGC
For the State	:	Shri Kumar Alok, SC-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-09-2021

The petitioner has prayed for the following relief/s :-

“I. For issuance of an appropriate writ



in the nature of a CERTIORARI or such other writ/order/direction for quashing that part of clause 'f' of the letter no. 52/2/Export/2020-EVM (P &T) dated 21.07.2020 issued under the signature of the Under Secretary, the Election Commission of India, New Delhi to the extent that 'and take approval of the ECIL in each case' whereas the Respondents Nos. 1 and 2 are doing hostile discrimination in the case of Petitioner.

II. For issuance of an appropriate writ in the nature of a MANDAMUS or such other writ/order/direction for declaring that the petitioner being an independent authority created under the Constitution of India is not under any administrative control of The Election Commission of India qua conducting the Panchayat/Municipalities Elections in Bihar and consequentially cannot be subjected to any directions emanating from The Election Commission of India with regard to procurement/usage/applicability of Electronic Voting Machines (EVM) so long it conforms to the admissible technical specifications.

III. For issuance of an appropriate writ in the nature of MANDAMUS or such other writ order direction commanding and directing the Respondent Nos. 1 &2 to give approval to Electronic Corporation of India Ltd. (hereinafter referred to as ECIL for sake of brevity) for supply of Electronic Voting Machine with Secured Detachable Memory Module (hereinafter referred to as SDMM for sake of brevity) to the petitioner (State Election Commission, Bihar) for conduct of ensuing three tier Panchyat general Election which is going to held in the month of March to May, 2021 because neither the State Election Commission, Bihar, nor the ECIL are violating any terms and condition as enumerated by the Election Commission of India in its letter bearing no. 52/2/Export/2020-EVM (P&T) dated 21.07.2020 (Annexure-P/1).

IV. For issuance of an appropriate writ in the nature of a MANDAMUS or such other writ/order/direction commanding and directing the Respondent Nos. 1 & 2 to act upon its own letter no. 52/2/Export/2021/EVM dated 01.02.2021 because the ECIL has written a letter on 06.02.2021 to the Election Commission of India for



confirmation to communicate with Technical Expert Committee (TEC) for further clearance.

V. For grant of any other relief or reliefs for which may be deemed entitled to the Petitioner into the facts and circumstances of the case.”

In view of the intervening developments, Shri Amit Shrivastava, learned senior counsel for the petitioner under instructions seeks permission to withdraw the present petition reserving liberty to file afresh, if any so arises.

Permission is granted.

Petition stands disposed of reserving liberty aforesaid.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/Sujit/

AFR/NAFR	
CAV DATE	
Uploading Date	10.09.2021
Transmission Date	

