

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8572 of 2020

1. Dr. Neeraj Kumar, aged about 51 years (Male) Son of Sri G D Singhal, Resident of 312, A P Colony, Gaya, PS-Gaya Town, District-Gaya.
2. Dr. Atal Kumar, aged about 47 years (Male) Son of Sri Mahendra Sharma, Resident of Lakhibag. Road No.2, Buniyadganj, Gaya, P.S.-Muffasil, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gaya.
2. District Election Officer-Cum-District Magistrate, Gaya.
3. The Election Commission, Bihar at Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sourendra Pandey, Advocate
For the Election Commission of India : Mr. Siddhartha Prasad, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 02-02-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Sourendra Pandey, learned counsel for the petitioners; learned counsel for the State and Mr. Siddhartha Prasad, learned counsel for the Election Commission of India.

3. The petitioners have moved the Court for the following relief:

“That this application is for issuance of appropriate writ, rule, direction in the form of writ of Certiorari for quashing the order dated 28.09.2020 issued by the District Election Officer-cum-District Magistrate, Gaya whereby the petitioners have been appointed as Patrolling Magistrates for the conduct of Bihar Legislative



Assembly Elections 2020 which is against directions dated 16.02.2010 issued by the Election Commission of India. And, after setting aside the aforesaid order, be further pleased to issue writ of Mandamus commanding and directing the respondents for appointing petitioners on the post that is commensurate to their class of service or pay scale and for any other writ, rule, direction for which the writ petitioners may be entitled under such facts and circumstances.”

4. Learned counsel for the petitioners fairly submitted that the period is over and the relief has also become infructuous. However, he submitted that repeatedly the cause of action is arising as the authorities are behaving in an arbitrary manner in drafting persons similarly situated to the petitioners for election duty, both in contravention of the direction of the Election Commission of India as also not commensurate with their status, as persons who are juniors to the petitioners have been given better responsibility as compared to the petitioners.

5. Learned counsel for the Election Commission of India submitted that the contention of the petitioners is misplaced as the direction is that such persons should not be given any polling duty in polling station premises, but even that can be done by recording specific reasons. However, it was submitted that in the present case, they were deputed as Patrolling Magistrate, which is a supervisory post as they had to ensure that everything was working properly, especially on the law-and-order front in different booths



by visiting those booths and they were not static at any one polling station.

6. Be that as it may, as the relief has become academic, the Court is not inclined to go into the merits of the matter and would further observe that no peremptory or presumptive writ is required to be issued. As and when any cause of action arises, any citizen has a right to approach the appropriate forum, including this Court.

7. Accordingly, the writ petition stands disposed off.

(Ahsanuddin Amanullah, J.)

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