

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1296 of 2021

=====

Smt. Ranju Singh Wife of Sri Rakesh Kumar Singh, Resident of Mohalla-Rajhat, Ward No. 13, P.S. and P.O.-Banmankhi, District-Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Panchayati Raj, Govt. of Bihar, Patna.
2. The State Election Commission (Nagar Panchayat) Election Bihar, Patna.
3. The District Magistrate-cum-The District Election Officer, Purnea.
4. The Deputy Collector, Land Reform, cum-Returning Officer, Nagar, Panchayat Parishad, Banmankhi, District-Purnea.
5. Thakur Ranjeet Singh @ Raju Singh, son of Arbind Prasad Singh, Resident of Mohalla-Rajhat Ward No. 13 (Sugar Mill Road), P.O. and P.S. Banmankhi, District-Purnea.
6. Abhimanyu Kumar Gupta, son of Late Shiv Narayan Gupta, Resident of Mohalla-Rajhat Ward No. 13, P.O. and P.S. Banmankhi, District-Purnea.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Amrendra Kumar Sinha
For the State	:	Mr. Prati Kumar Sinha, AC to GA 5
For the S.E.C.	:	Mr. Amit Shrivastava, Sr. Adv. Mr. Girish Pandey

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 10-08-2021 Heard learned Counsel for the parties concerned.

The petitioner is aggrieved by the acceptance of nomination paper of respondent no. 5, Thakur Ranjeet Singh, in the Nagar Panchayat Election, Banmankhi.

Learned Counsel for the petitioner submits that at the time of filing of nomination papers, respondent no. 5 had given wrong statement and has concealed the facts and for enquiry of the same, the petitioner has filed a petition before the State



Election Commission (Annexure-4), but the State Election Commission has directed respondent no. 4 to enquire into the matter, but no final outcome has been communicated to the petitioner by the concerned authority.

Learned Senior Counsel for the State Election Commission submits that the writ application filed by the petitioner is not maintainable in view of the law laid down by the Full Bench of this Court, in the case of **Rajani Kumari v. The State Election Commission and others**, reported in **2019 (4) PLJR 673**, in which it has been held that the power of the Election Commission is restricted to Section 18 (2) of the Bihar Municipal Act, 2007 and Section 136 (2) of the Bihar Panchayati Raj Act, 2006. He further submits that from perusal of Section 479 (1) (d) (i) of the Bihar Municipal Act, it would be clear that improper acceptance of any nomination by the Returning Officer is one of the ground for declaring the election as void and as per Sections 476 and 477 of the Bihar Municipal Act, the election petition has to be filed before the proscribed authority, i.e. Election Tribunal presided over by the Munsif.

Learned Counsel for the petitioner submits that he has filed an election petition before the Munsif-I, Banmankhi, vide Election Case No. 01 of 2017, which is still pending.



Learned Counsel for the State also opposes the prayer of the writ petitioner and submits that in view of the provisions of the Bihar Municipal Act, the remedy of the petitioner is before the Election Tribunal and not by way of filing a writ petition.

Having heard learned Counsel for the parties concerned and after carefully considering the materials available on record and the fact that the petitioner has already filed election petition before the Election Tribunal, in my opinion, the grievance of the petitioner cannot be adjudicated in the present writ application.

This writ application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

U	✓		
---	---	--	--

