

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1745 of 2021

Sanjeet Kumar Badal Gupta S/o- Late Ganga Prasad Gupta @ Late Ganga Sah resident of Village and P.O.- Madhwapur, P.S.- Madhwapur, District- Madhubani.

... .. Petitioner/s

Versus

1. The Election Commission of India New Delhi through its Secretary, Election Commission of India, New Delhi.
2. The Chief Election Commissioner, Election Commission of India, New Delhi.
3. The State Election Commission, Bihar, Patna through its State Election Commissioner, State Election Commission, Bihar, Patna.
4. The District Returning Officer-cum- District Magistrate, District- Madhubani.
5. The Returning Officer-cum- Sub Divisional Officer-cum- D.C.L.R, 31 Harlakhi, Benipatti, District- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava, Adv.
For the Respondent/s	:	Mr. Gyan Shankar, Adv.
For the Union of India	:	Mr. Siddhartha Prasad, AC to GP-2

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 20-07-2021 Heard Mr. Shri Prakash Srivastava, learned counsel for the petitioner, Mr. Gyan Shankar, learned counsel for the State and Mr. Siddhartha Prasad, learned AC to GP-2 for the Election Commission through video conferencing.

Petitioner has challenged the order dated 21.10.2020 (Annexure- P/3) passed by Respondent No.5, the Returning Officer-cum-Sub-Divisional Officer-cum-DLCR, Madhubani by which the nomination paper of the petitioner for election of MLA in 31 Harlakhi Assembly Constituency has been rejected.



Learned counsel for the petitioner submits that Respondent No.5 while rejecting the nomination paper of the petitioner has acted arbitrarily and in contravention of Section 32, 33 and 36(4) of the Representation of People Act, 1951.

Learned counsel appearing for Union of India and State raised a preliminary objection about the maintainability of this writ petition and Mr. Siddhartha Prasad, learned counsel for Union of India referring to Article 329(b) of the Constitution of India submits that there is a bar in interference by the Courts in electoral matters and no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

Learned counsel further submits that rejection of nomination of the writ petitioner by Respondent No.5 gives rise to election dispute and the writ petitioner may be relegated to a remedy before an appropriate forum by way of duly constituted election petition.

After having heard learned counsel for the parties and taking into consideration the nature of dispute and the fact that petitioner has challenged the rejection of his nomination by the



Returning Officer for the election of members of legislative assembly, in my considered view, this writ petition gives rise to an election dispute and accordingly, the present writ petition is not maintainable and the same is, hereby, rejected.

(Anil Kumar Sinha, J)

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