

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9748 of 2021

Masood Ahmad Khan, S/o Rizwanel Haque Khan, R/o Village - Kundwa,
Police Station- Kesariya, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Co-operative, Government of Bihar, Patna.
2. The Bihar State Election Authority, Bihar, Patna through its Chief Election Officer.
3. The Chief Election Officer, Bihar State Election Authority, Bihar, Patna.
4. The Registrar Co-operative Societies, Bihar, Patna.
5. The Deputy Registrar (Cane), Co-operative Societies, Bihar, Patna.
6. The Block Development Officer Cum Returning Officer, Kesariya.
7. Gochhi Kushahar Primary Agriculture Co-operative Society, Kesaria through its Manager, East Champaran.
8. Khalilurohman Khan, S/o Izhar Haquen Khan, Village - Kundwa, P.O. - Bairiya, P.S. Kesariya, District - East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr.Bindhyachal Rai, Advocate
For the State	:	Mr.Sushil Kumar, G.P.-22

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

3 16-02-2022 The matter has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

The present writ petition involves disputes in relation to election for the post of Chairman of Gochhi Kushahar Primary Agriculture Co-operative Society, Kesariya, East Champaran.



The Block Development Officer, Kesariya (Respondent No.6) was appointed as the Returning Officer. The petitioner has alleged in the writ petition that during the course of counting of votes various illegalities were committed in the nature, *inter alia*, of void votes on account of 'double marking' and even blank ballot papers having counted in favour of the returned candidate, Khalilurohman Khan (Respondent No.8). The petitioner secured 274 votes whereas the Respondent No.8 secured 284 votes, with 43 votes having been declared invalid.

It is the petitioner's allegation that though he had filed objection before Respondent No.6, the Returning Officer, for recounting of votes, the same was not duly considered.

The petitioner had approached the Registrar, Co-operative Societies, Bihar by filing an application giving rise to Election Dispute Case No.83 of 2020 seeking direction for recount of the votes. The said application has been rejected by an order dated 13.10.2020, which is under challenge in the present writ application.

Learned counsel appearing on behalf of the petitioner has argued that since Respondent No.8 has been declared elected with small margin of only ten votes, the Registrar, Co-operative Societies ought to have considered the petitioner's



request for recount of votes. He has submitted that the impugned order has been passed without even issuing notice to the private respondents and seeking any report from the concerned authorities.

We have perused the impugned order, which is apparently speaking and reasoned. The Registrar, Co-operative Societies has clearly mentioned in his order that the petitioner failed to bring on record any evidence in support of his claim of irregularities committed during the course of counting of votes. The Registrar, Co-operative Societies has further observed in the impugned order that a request for recounting of votes could not be entertained merely on asking.

Learned counsel appearing on behalf of the petitioner has not been able to satisfy this Court, on the basis of pleadings on record that the said observation/finding recorded by the Registrar of the Co-operative Societies is unsustainable and that despite availability of evidence before him, he declined to consider the same. Pleadings in the present writ application are also quite vague inasmuch as there is a vague statement that various illegalities were committed and void votes were counted.

In such view of the matter, the impugned order, in our



opinion, does not require interference in a judicial review proceeding under Article 226 of the Constitution of India.

This application stands dismissed accordingly.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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