

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5970 of 2022

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Rameshwar Patel, son of Siya Ram Patel, Resident of Village-Isha Chapra,
P.O. Bangra Nizamat, P.S. Sahebganj, District-Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
4. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
5. The Secretary, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna
6. The District Magistrate-cum-District Election Officer (Panchayat), Muzaffarpur, District-Muzaffarpur.
7. The Block Development Officer, Sahebganj, District-Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kr. Manglam, Adv. Mr. Awnish Kumar, Adv.
For the Respondent/s	:	Mr. Satya Vrat AC to GP-10
For the SEC	:	Mr. Sanjeev Nikesh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 01-08-2022

Heard Mr. S.B.K. Manglam, learned counsel for
the petitioner, Mr. Sanjeev Nikesh, learned counsel for the State
Election Commission and Mr. Satya Vrat, learned AC to GP-10
for the State.

2. In the instant application, the petitioner has prayed



for issuance of the writ in the nature of mandamus directing the respondents-State and the respondents-State Election Commission to hold the election for the vacant post of Mukhiya of Gram Panchayat Raj, Halimpur under Sahebganj Block, Muzaffarpur district which was postponed by the State Election Commission vide its letter no. 5894 dated 25.10.2021 on the ground that in the midst of election notified for the said post in the sixth phase of Panchayat Election, 2021, one of the validly nominated candidates had died.

3. Mr. S.B.K. Manglam, learned counsel for the petitioner submitted that the Gram Panchayat Raj, Halimpur falls within the jurisdiction of Sahebganj Block in the district of Muzaffarpur and in Sahebganj Block, the Panchayat Election, 2021 was scheduled in sixth phase for which the process of nomination had to begin on 05.10.2021. The date of polling was scheduled on 03.11.2021 and the process of election was to be concluded after counting of votes on 13/14.11.2021. In order to contest the said election for the post of Mukhiya of Gram Panchayat Raj since more than one candidate had filed their nomination, the election was to be held on 03.11.2021. However, before the schedule date of election, one of the validly nominated candidates had died. Hence, the State Election



Commission postponed the election vide order dated 25.10.2021. He contended that there was sufficient time for State Election Commission to have notified the election in Halimpur Gram Panchayat in the last phase of election for which the process of nomination was to begin from 18.11.2021 and the poll was scheduled on 12.12.2021. Yet the State Election Commission did not notify the election as a result of which the post of Mukhiya of Halimpur Gram Panchayat is lying vacant till date.

4. A counter affidavit has been filed on behalf of the respondent nos. 3 to 5, wherein it has been stated that the State Election Commission has taken information from all the districts of the State with regard to vacant posts on which election was not held due to countermand as stipulated under Rule 50 of the Bihar Panchayat Election Rules, 2006 and after the information was received that the number of vacant posts are 78 in different districts, on 18.06.2022, the State Election Commission has issued a detailed programme to conduct the election for the post which are lying vacant due to countermand of the election.

5. Mr. Sanjeev Nikesh, learned counsel appearing for the State Election Commission has drawn our attention towards



Annexure-R3-5/2 of the counter affidavit which contains the time bound election plan for conducting the election against the vacant posts under Rule 50 of the Bihar Panchayat Election Rules, 2006. He contended that as per the election plan, the respondents-State Election Commission shall conduct election for the post which are lying vacant due to countermand of the election by the end of October, 2022.

6. Considering the submissions advanced on behalf of the parties and the materials on record, especially, the election plan brought on record by the respondents-State Election Commission, the writ petition is disposed of with a direction to the respondent nos. 3 to 5 to positively hold the election for the vacant post of Mukhiya of the Gram Panchayat Halimpur under Sahebganj Block in the district of Muzaffarpur by the end of October, 2022.

(Ashwani Kumar Singh, J)

(Shailendra Singh, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03-08-2022
Transmission Date	NA

