

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17961 of 2021

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Puja Kumari Daughter of Sajan Chaupal and Wife of Ram Dayal Yadav,
resident of Village - Jhanjpatti, Doman, P.O. Hudra, P.S.- Khutauna, District-
Madhubani.

... .. Petitioner

Versus

1. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commissioner, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna
3. The Secretary, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
4. The District Magistrate-cum-District Election Officer (Panchayat), Madhubani, District- Madhubani.
5. The District Panchayat Raj Officer, Madhubani, District- Madhubani.
6. The Block Development Officer, Khutauna-cum-Returning Officer, District- Madhubani.
7. The Circle Officer Khutauna, District- Madhubani.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. S.B.K. Manglam, Advocate Mr. Awnish Kumar, Advocate
For State Election Commission	:	Mr. Sanjeev Nikesh, Advocate
For the Respondent	:	Mr. Ajay (GP-5) Mr. Pratik Kumar Sinha, AC to GA-5

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 10-05-2022

The petitioner has chosen to file this writ application under Article 226 of the Constitution of India seeking quashing of an order dated 25.09.2021, passed by the Block Development Officer, Khutauna-cum-Returning Officer in the district of Madhubani, whereby the petitioner's



nomination to contest the election for the post of Mukhia of Gram Panchayat Raj, Durgipatti came to be rejected on the ground that the caste certificate enclosed by the petitioner along with his nomination paper had not been found to be certified in terms of the report submitted by the concerned Circle Officer. The petitioner is also seeking a direction from this Court to the respondent No. 6 in the present writ application to accept the nomination paper of the petitioner and allow her to contest the *Panchayat Election 2021* for the post of Mukhia of *Gram Panchayat Raj, Durgipatti* on the ground that rejection of her nomination by respondent No. 6 is wholly illegal. There is a third prayer, seeking direction to the respondent Election Commission for blacklisting the Block Development Officer Khutauna and the Circle Officer, Khutauna for their deputation in the election duty in future as also for their immediate transfer from their respective posts, since in the presence of the said respondents, i.e., The Block Development Officer, Khutauna and The Circle Officer, Khutauna there was no possibility of free and fair election.

2. It is not in dispute that the *Gram Panchayat General Elections* in the State of Bihar have already been held and election results have been announced, including for the post



of *Mukhia* of Gram Panchayat, Durgapatti, long back.

3. In response to a Court's query as to whether this writ application has become infructuous, Mr. S.B.K. Manglam, learned counsel for the petitioner has insisted that the first relief, which has been prayed for on behalf of the petitioner still survives. He submits that he will not be pressing the second relief as sought for in the present writ application.

4. Despite this Court's observations, Mr. Manglam has insisted that this Court must address the issue regarding rejection by the Returning Officer of the nomination paper filed by the petitioner to contest the election to the post of *Mukhia*.

5. Considering the manner in which this writ petition has been argued with all vehemence, despite the fact that the elections have already been held, we consider it appropriate to reproduce the reliefs which the petitioner has sought:-

“(i) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 25.09.2021 passed by the Respondent No. 6 rejecting the nomination filed by the petitioner to contest for the post of Mukhia of Gram Panchayat Raj, Durgipatti on the ground that in view of the report submitted by the Circle Officer, the caste certificate enclosed by the petitioner along with his nomination paper has not been found to be certified.

(ii) For issuance of an appropriate writ in the



nature of MANDAMUS, commanding and directing the Respondent No. 6 to accept the nomination of the petitioner and allow her to contest the Panchayat Election, 2021 for the post of Mukhia of Gram Panchayat Raj, Durgipatti on the ground that the rejection of her nomination by the Respondent No. 6 is wholly illegal and without jurisdiction.

(iii) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent State Election Commission for blacklisting of the Respondent Nos. 6 and 7 for their deputation in the election duty in future as also for his immediate transfer from his post since in presence of Respondent Nos. 6 and 7 as the Block Development Officer and Circle Officer of Khutauna Blocki, there can be no possibility of free and fair election in the Block.”

6. Mr. S.B.K. Manglam, learned counsel for the petitioner in response to a Court's query, has submitted that he does not have any instruction as to whether the petitioner has filed any election petition after declaration of the result.

7. In the aforesaid background, we fail to understand how the relief No. (i), can be entertained which relates to rejection of the petitioner's nomination paper by an order dated 25.09.2021 on the ground mentioned in the said order, in writ jurisdiction under Article 226 of the Constitution of India. It is



unfortunate that Mr. Manglam has addressed this Court at length to consider granting relief No. (i) as sought in the present writ application. We are of the definite view that the writ petition has become infructuous after the elections having been held.

8. It is trite that any alleged irregularity said to have been committed when an election, which is governed by an election law is in progress, the same can be questioned only by filing election petition. It is the mandate of Article 243 O of the Constitution of India that no election to any *Panchayat* can be called in question except by an election petition. There is line of judicial pronouncement which prohibit interference in election matter in exercise of writ jurisdiction. Corresponding identical provisions have been made under Section 137 of the Gram Panchayat Raj Act, 2006.

9. Despite this settled legal position, this Court's time has unnecessarily been wasted by Mr. Manglam by making unnecessary, unfounded submissions refusing to notice repeated, clear observations made by this Court on the point of its maintainability, more so when the election has already been held and election results announced long back.

10. For the aforesaid reason, this application is accordingly dismissed with a cost of Rs. 10,000 (Rupees Ten



Thousand Only) to be deposited in the account of Bihar State
Legal Services Authority within two months from today.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2022
Transmission Date	NA

