

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21148 of 2021

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Kishore Prasad @ Kishore Kumar Son of Sri Bhajuman Prasad Resident of
Village - Ghorasahan, Police Station - Ghorasahan, District- East Champaran.

... .. Petitioner/s

Versus

1. The State Election Commission Bihar, Patna.
2. The District Election Officer - Cum- District Officer, East Champaran, Motihari.
3. The Sub-Divisional Officer, Sikrahana, East Champaran, Motihari.
4. The Block Development Officer, Ghorasahan, East Champaran.
5. Raju Jaishwal Son of Sri Narendra Prasad Resident of Village - Ghorasahan, P.S. - Ghorasahan, District - East Champaran.
6. The State of Bihar through Principal Secretary Panchayat Raj Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Adv Mr. Sunil Prasad, Adv
For the Respondent/s	:	Mr. Ajay (GA5) Mr. Girish Pandey, Adv Mr. Amit Shrivastava, Adv Mr. Sanjeev Nikesh, Adv

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 13-01-2022 This application has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

The petitioner is seeking this Court's interference in proceeding under Article 226 of the Constitution of India in the matter of election of respondent no. 5 as *Mukhiya* of



Ghorasahan *Gram Panchayat*, mainly on the ground that there was no disclosure on affidavit in respect of criminal cases pending against the said respondent at the time of filing of nomination for contesting the election which according to the petitioner is violative of Section 125A(ii) of the Bihar Panchayat Raj Act, 2006.

The petitioner had approached the State Election Commission, Bihar raising similar objection which has been rejected by the Commission by an order dated 03.12.2021 with liberty to the petitioner to approach the Election Tribunal to challenge election of respondent no. 5 by filing an election petition. Instead of approaching the Tribunal, the petitioner has filed the present writ application seeking the relief as noted above.

Despite our observations that the petitioner ought to have approached the Tribunal by filing election petition instead of approaching this Court by making this writ application, learned counsel appearing on behalf of the petitioner has argued that this writ petition should be entertained in the light of a decision of this Court in case of **Rukhsana Praveen vs. State of Bihar & Ors.** reported in **2021 (1) BLJ 368.**



Apparently, the said decision of this Court in the case of Rukhsana Praveen (supra) arose out of a decision rendered by the Election Tribunal on an election petition and does not support the petitioner's contention that this writ application should be entertained, despite there being remedy of preferring election petition.

This application, in our opinion, has no merit and is accordingly dismissed.

We were inclined to impose cost on the petitioner but have refrained from doing so on persuasion of learned counsel for petitioner.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

SUMIT/K.K.RAO/

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