

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.373 of 2022

Ashok Dass, Son of Baij Nath, Resident of Village- Rasalpur Dayal Urf Bahira, P.O. Marpa Factory, P.S. Bairstania, District- Sitamarhi.

... .. Petitioner/s

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), Sitamarhi, District- Sitamarhi.
5. The Block Development Officer-cum-Returning Officer, Panchayat Election, 2021 Bairstania Block, District- Sitamarhi.
6. Chintawan Ram Son of Phaguni Ram, Resident of Village- Marpa, P.O. Marpa Factory, P.S. Bairstania, District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Awnish Kumar, Advocate
For the Respondent/s	:	Mr.Lalit Kishore (AG)
		Mr. Girish Pandey
		Mr. Amit Shrivastava

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 13-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“ (I) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent State Commission to countermand the Panchayat Election, 2021, Patahi for which election was held on 15.11.2021 on the ground that a First Information Report was lodged by the Returning Officer on 15.11.2021 itself being Bairstania P.S. Case No.247 of 2021 dated 15.11.2021 against Sanjila Khatoon, Jarina Khatoon and Yasmin for casting of bogus votes in different Polling Stations in the

petitioner's Gram Panchayat

(II) For a declaration that if the counting of votes of the petitioner's Gram Panchayat was conducted and concluded behind the back of the Counting Agents of the petitioner for the reason that the Returning Officer did not permit the petitioner for appointment of sufficient number of Counting Agents proportionate to number of the Counting Tables to be set out in the Counting Hall , there was no valid counting of votes in the Gram Panchayat of the petitioner for the post of Mukhiya and, therefore, the declaration of result of election in pursuance of ex-parte counting of votes.

(III) For issuance of an appropriate writ in the nature of MANDAMUS , commanding and directing the Respondent State Election Commission for holding a fresh, free and fair election in the petitioner's Gram Panchayat for the post of Mukhiya and declare its result after the counting of votes in the presence of Counting Agents of all the contesting candidates which is the mandate of law and it is also essential for maintaining the purity of election process.

(IV) For issuance of any other appropriate writ/writs, order/orders direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case. ”

After the matter was heard for some time, learned counsel for the petitioners, under instructions, states that petitioners shall be content if a direction is issued to the authority concerned, i.e., respondent **no.3, The State Election Commissioner, the State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna** or any of the statutory authority to consider and decide the representation which the petitioners shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioners, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of four months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioners shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of four months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioners take recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(f) Liberty reserved to the petitioners to approach the Court, if the need so arises subsequently on the same and

subsequent cause of action;

(g) Liberty also reserved to the petitioners to make a mention for listing of the petition on priority basis. As and when any such mention is made, Registry shall take steps for listing the petition at the earliest.

(h) We have not expressed any opinion on merits. All issues are left open;

(i) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

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