

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21400 of 2021

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1. Arun Kumar Son of Gokul Ray, Resident of Village - Terua, P.O. - Faziullahpur, Gram Panchayat - Bangra, P.S. - Baikunthpur, District - Gopalganj.
 2. Chhotelal Das, Son of Dharamnath Das, Resident of Village and P.O. Gamhari, Gram Panchayat - Gamhari, P.S. - Baikunthpur, District - Gopalganj.
 3. Dharmendra Kumar, Son of Rajendra Rai, Resident of Village - Sonwaliya, P.O. Rajapatti, Gram Panchayat - Hamidpur, P.S. - Baikunthpur, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Department, Government of Bihar, Patna.
3. The State Election Commission (Panchayat), 3rd Floor, Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
4. The State Election Commissioner, The State Election Commission (Panchayat), 3rd Floor, Sone, Bhawan, Birchand Patel Path, Patna.
5. The Secretary, The State Election Commission (Panchayat), 3rd Floor, Sone Bhawan, Birchand Patel Path, Patna.
6. The District Magistrate-cum-District Election Officer (Panchayat) Gopalganj, District - Gopalganj.
7. The Block Development Officer-cum-Returning Officer, Panchayat Election, 2021 Baikunthpur Block, District - Gopalganj.
8. Manju Dev Wife of Om Prakash Singh, Resident of Village - Marwa, P.O. - Rajapatti, Gram Panchayat - Bangra, P.S. - Baikunthpur, District - Gopalganj.
9. Asha Devi Wife of Sanjay Baitha, Resident of Village and P.O. Gamhari, Gram Panchayat - Gamhari, P.S. Baikunthpur, District - Gopalganj.
10. Nirmala Devi Wife of Upendra Singh, Resident of Village - Sonwaliya, P.O. Rajapatti, Gram Panchayat - Hamidpur, P.S. - Baikunthpur, District - Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Awnish Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP7)

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 : 11-01-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

(I). For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent State Election Commission to declare the Panchayat Election, 2021 held in Gram Panchayat Raj, Bangra, Gamhari and Hamidpur under Baikunthpur Block of Gopalganj District for the post of Mukhiya as void election if it has been conducted and concluded by the Officers associated with the conduct of aforesaid election in violation of statutory provisions contained under Rule-46 and Rule- 48 of the Bihar Panchayat Election Rules, 2006 besides many other violation namely:-

(a) Engagement of relatives of the candidates contesting the election for the purposes of polling and counting of votes;

(b) Declaration of result in favour of elected candidate but without counting of votes in presence of the candidates and /or their Counting Agents; and

(c) Allotment of Electronic Voting Machines to different constituencies for the purposes of voting but without its randomization in the presence of the candidate or their representatives and without resorting to the process of mock poll by the Presiding Officers in the presence of Polling Agents of different candidates etc. etc.

(ii) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the letter no. 5131 dated 08.10.2021 issued by the State Election Commission and addressed to all the District Election Officers, directing them not to issue copies of table-wise result sheet of Bihar Panchayat Election, 2021 prepared in Form-19, 20(1), 20(2)

and 20(3) to any applicant under Right to Information Act on the ground that if the documents referred to in the said letter are statutory documents, supply of its copies cannot be restricted to the candidates or any person applying for it in view of the provisions contained under Rule-63, 68 and 76 (3) of the Bihar Panchayat Election Rules, 2006.

(iii) For a declaration if an election has been conducted in violation of the statutory provisions and in absence of authorized Agents of the candidates contesting the election, such elections are neither fair nor free in the eye of law and, therefore, such election are no election and the outcome of such election in form of declaration of result in favour of one or the other candidate is not at all sustainable in the eye of law.

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

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned, respondent no.3, the State Election Commission (Pachayat) 3rd Floor, Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner, or any of the statutory authority to consider and decide the representation which the petitioner 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 petitioner, 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) Petitioner 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 petitioner to take recourse to such alternative remedies

as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioner takes 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 petitioner to approach the Court, if the need so arises subsequently on the same and subsequent cause of action;

(g) Liberty also reserved to the petitioner 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