

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17049 of 2022

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Surya Narayan Singh son of Prabhu Narayan Singh, Resident of Village-
Ramavatpur, P.O. Jaitpur Kala, P.S. Bhagwanpur, District- Kaimur at
Bhabhua.

... .. Petitioner/s

Versus

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

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 1547 of 2023

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Rajendra Baitha son of Jitlal Baitha, Resident of Village- Mura, P.O.
Chandisthan, P.S. and Block- Areraj, District- East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The Bihar State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
2. The State Election Commissioner, The Bihar State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
3. The Secretary, The Bihar State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
4. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
5. The District Magistrate-cum-District Election Officer (Panchayat), East Champaran at Motihari, District- East Champaran at Motihari.
6. The District Panchayat Raj Officer, East Champaran at Motihari, District- East Champaran at Motihari.
7. The Block Development Officer, Areraj, District- East Champaran at Motihari.
8. The Block Panchayat Raj Officer, Areraj, District- East Champaran at Motihari.

... .. Respondent/s



with
Civil Writ Jurisdiction Case No. 1592 of 2023

Kumar Satya Prakash Son of Triloki Singh Resident of Village- Dhatiwana,
P.S.- Thawe, District- Gopalganj.

... .. Petitioner/s

Versus

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

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 17049 of 2022)

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
Mr. Awnish Kumar, Advocate
For the State : Mr. Kumar Alok, S.C.-7
Mr. Satyeshwar Prasad, A.C. to S.C.-7
For the S.E.C. : Mr. Lalit Kishore, Sr. Advocate
Mr. Sanjeev Nikesh, Advocate
Mr. Girish Pandey, Advocate

(In Civil Writ Jurisdiction Case No. 1547 of 2023)

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
Mr. Awnish Kumar, Advocate
For the Respondent/s : Mr. Kameshwar Pd. Gupta, G.P.-10
Mr. Satya Vrat, A.C. to G.P.-10
For the S.E.C. : Mr. Girish Pandey, Advocate

(In Civil Writ Jurisdiction Case No. 1592 of 2023)

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
Mr. Awnish Kumar, Advocate
For the Respondent/s : Smt. Archana Meenakshee, G.P.-6
Mr. Harish Singh Goldie, A.C. to G.P.-6
For the S.E.C. : Mr. Sanjeev Nikesh, Advocate
Mr. Girish Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 21-03-2023

Heard Mr. S.B.K. Mangalam learned counsel for the



petitioners, learned counsel for the State and Mr. Lalit Kishore learned Senior Counsel for the State Election Commission.

Learned counsel for the petitioners submits that Panchayati Raj as a system of governance was formalized in 1992 by the 73rd amendment to the Constitution, which led to the foundation of grass root democracy.

It is next submitted that grass root democracy is a people driven contribution in elections, governance and decision making. The grass root democracy can be seen as a propensity towards designing political process where decision making authority is shifted to the lowest level of the organization, therefore, a local government is a government at the grass root level of administration meant for meeting peculiar grass root needs of the people. The grass root level is called Panchayati Raj System, if democracy means people's participation in running their affairs, then it is no where more direct, clear and significant that at the local level where the contact between the people and their representative is more constant, vigilant and manageable, thus, decentralization is the main mechanism through which democracy becomes truly representative and responsible. Involvement of people at grass root level is the most important way for bringing socioeconomic development,



decentralization of power to the Panchayat is visualized as a mean of empowering people and involving them in decision making process. Local government is being closer to the people are more receptive to the local need and can make better use of the resources.

Learned counsel, thus, submits that the importance of grass root democracy can well be imagined which has a constitutional mandate.

It is next submitted that the present writ application has been filed seeking a direction upon the authorities to hold election of various posts of Panchayat. It is next submitted that the Mukhiya of the Gram Panchayat Raj, Jaitpur, Kala under Bhagwanpur Block of Kaimur District died on 23.07.2022 but till date election for the post of Mukhiya has not been held which necessitated the petitioners to file the present writ application. Learned counsel next submits that the matter was earlier taken up by the Hon'ble Division Bench on 06.01.2023 wherein the State Election Commission by referring to letter no. 5600, dated 21.11.2022 submitted that the Secretary, State Election Commission has written a letter to the Principal Secretary, Gram Panchayat Raj Department to take all the steps and also directed to prepare up-to-date electoral roll by



25.11.2022 and to hold the election as early as possible and for the said purpose also directed to issue notification by 04.11.2022. It is submitted that the said submission of the State Election Commission was taken note of and the State Election Commission was directed to file separate counter affidavit. It is next submitted that separate counter affidavit was filed based on which when the matter was taken up on 16.01.2023, however, a short adjournment was sought which was granted, thereafter the case was again taken up on 02.02.2023 wherein the learned Senior Counsel for the State Election commission submitted that they have filed counter affidavit in which a categorical stand has been taken that the elections to the concerned post as raised in the writ petition would be concluded by 31.03.2023 which stood recorded in the order dated 02.02.2023.

Learned counsel for the petitioners submits that despite a categorical stand taken by the State Election Commission to conclude the election by 31.03.2023, still no action has been taken when admittedly the post of the Mukhiya of the aforesaid Gram Panchayat is lying vacant after the death of the Mukhiya since 23.07.2022. It is, thus, submitted that the authorities of the State cannot interfere in the grass root democracy in the manner in which they have acted i.e. to delay



the process of election. It is next submitted that the State Election Commission had taken a specific stand that the Principal Secretary, Gram Panchayat Raj has been requested to take steps for preparing up-to-date electoral roll by 25.11.2022 but the same also till date has not been done. It is further submitted that in such a situation, the interference of the Court is required as the people of the Panchayat cannot be left at the mercy of the authorities.

Learned Senior Counsel Mr. Lalit Kishore appearing on behalf of the State Election Commission submits that I.A. No. 01 of 2023 has been filed for seeking extension of time for complying the order dated 02.02.2023 passed in the present writ application. It is next submitted that in the counter affidavit which was filed on behalf of the respondent nos. 5 to 7 earlier it was specifically stated that the Election Commission of India is going to publish the voter list on 16.01.2023 on the basis of qualifying date i.e. 01.01.2023 and, as such, the voter list was to be prepared on the basis of the voter list dated 16.01.2023 which was to be issued by the Election Commission of India in terms of Section 126 of the Bihar Panchayat Raj Act, 2006 but the revised Assembly Voter List was published on 27.01.2023.

Thereafter the State Election Commission vide letter



no. 598, dated 15.02.2023 requested the Chief Electoral Officer, Bihar for providing the voter list (Annexure-4 to the interlocutory application). In response of the letter dated 15.02.2023 of the State Election Commission, Bihar, the Joint Secretary-cum-Joint Chief Electoral Officer, Bihar vide his letter no. 727 dated 28.02.2023 requested the State Election Commission to authorize a person for receiving the updated voter list with photo of all the Assembly Constituency, thereafter the State Election Commission after receiving the required data from the Chief Electoral Officer, Bihar communicated to all the District Magistrates-cum-District Election Officers intimating detailed program for preparation of voter list with photo vide its letter no. 786 dated 06.03.2023 (Annexure-6 to the interlocutory application). Learned Senior Counsel thus submits that the delay which has occurred was not intentional nor the authorities, at any point of time, intended to delay the election, rather the circumstances was such that the voter list published by the Election Commission of India had to be communicated to the State Election Commission, Bihar in which some time lapsed. Learned Senior Counsel assures this Court, based on the pleadings made in the interlocutory application, that the election process would be completed positively by 31.05.2023.



Learned counsel for the petitioners rebuts the submission of the learned Senior Counsel for the State Election Commission and submits that the delay which has occurred has adversely affected the petitioners and similarly situated persons who remained deprived of contesting the election of the Gram Panchayat which is a constitutional mandate on account of lackadaisical approach of the authorities.

Be that as it may, since the learned Senior Counsel for the State Election Commission based on the pleadings made in the interlocutory application has assured this Court that the election would be completed by 31.05.2023, as such, the Court does not feel persuade to proceed further but makes it clear that in the event if the election does not take place as pleaded in the interlocutory application by 31.05.2023, serious consequences would follow.

Accordingly, I.A. No. 01 of 2023 is allowed and the writ applications stands disposed of in terms of the undertaking given to this Court as recorded aforesaid.

(Satyavrat Verma, J)

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