

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.177 of 2022

In
Civil Writ Jurisdiction Case No.18945 of 2021

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Hemant Kumar, son of Late Ravindra Pratap Narayan Singh, resident of Village-Tajpur Patkholia, P.O. Tajpur Patkhauliya, P.S. Keshariya, District-East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through Sri Amir Subhani, son of not known to the petitioner, presently posted as the Chief Secretary, Government of Bihar, Patna.
2. Sri Deepak Kumar, son of not known to the petitioner, presently posted as the State Election Commissioner, the State Election Commission (Panchayat), 3rd Floor, Sone Bhawan, Birchand Patel Path, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Lalit Kishore, Sr. Adv. Mr. Sanjeev Nikesh, Adv. Mr. Girish Pandey, Adv. Mr. Awnish Kumar
For the State	:	Mr. Kumar Alok (Sc7) Mr. Prem Ranjan Raj, AC to SC-7

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and

HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date : 12-07-2023

1. The present petition has been filed, complaining about the disobedience of the order dated 16.11.2021, passed by this Court in CWJC No.18945 of 2021, wherein this Court had recorded the assurance of the learned counsel appearing for the State Election Commission to the effect that the CCTV footage and other records of the Panchayat Election held in the year 2021 with regard to the constituency in question shall be



examined to see as to whether the election was conducted in a free and fair manner, whereafter communication shall be sent to the petitioner.

2. The learned senior counsel for the State Election Commission, Shri Lalit Kishore has submitted by referring to the show-cause filed in the present case that after passing of the aforesaid order of this Court dated 16.11.2021, the opposite party no.2 had directed the concerned District Magistrate-cum-District Election Officer to send the CCTV footage of the counting process, whereafter the CCTV footage of the counting process of the petitioner's constituency was sent to the State Election Commission and a joint committee was constituted by the Commission to examine the CCTV footage, whereupon detailed findings were incorporated in a report, which was then placed in the relevant file and thereafter an order dated 11.05.2022 was passed by the State Election Commission, Bihar Patna, a copy whereof has also been communicated to the petitioner herein. It is also submitted that the opposite party, under the bona fide belief and considering the provisions contained under Article 243O(b) of the Constitution of India read with Section 138(b) of the Bihar Panchayat Raj Act, 2006 as also in view of the authoritative pronouncements of the



Hon'ble Apex Court as well as this Court, on the subject matter had refrained from incorporating the findings arrived at upon examination/verification of the CCTV footage and other materials in the aforesaid order dated 11.05.2022, especially since the same could cause prejudice to the concerned election petitioner, in case of filing of an election petition, which in fact has been filed by the wife of the petitioner. Nonetheless, the learned counsel for the opposite party no.2 has produced the original file of the case in which findings have been recorded, upon verification of the CCTV footage, etc.

3. We have not only perused the aforesaid file produced before us but have also gone through the report in question and we are satisfied that the opposite parties have examined the CCTV footage and recorded their findings satisfactorily.

4. The learned senior counsel for the opposite party has also submitted that the wife of the petitioner herein, namely, Smt. Rubi Singh has filed an election petition bearing Case No.06 of 2021, before the learned Civil Judge (SD)-X, East Champaran at Motihari, which is pending adjudication.

5. At this juncture, the learned counsel for the petitioner has submitted that since the findings arrived at by the



authorities, upon examination of the CCTV footage, has not been recorded in the order dated 11.05.2022, the order of this Court dated 16.11.2021 has not stood complied with. This submission has been noted only to be rejected, inasmuch as upon perusal of the records/file produced before this Court, this Court is satisfied that the needful has been done in compliance of the order of this Court dated 16.11.2021, disobedience whereof has been complained of.

6. Having regard to the facts and circumstances of the case and being satisfied that the order of this Court dated 16.11.2021, passed in CWJC No.18945 of 2021 has been fully complied with by the opposite parties, the present petition is dismissed.

(Mohit Kumar Shah, J)

(Shailendra Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

