

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2410 of 2023

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Sachida Nand Singh Son of Ram Swarup Singh, Resident of Village- Yogini,
P.S. Dawath, Dist. - Rohtas.

... .. Petitioner/s

Versus

1. Koath Nagar Panchayat through its Chief Executive Officer, Koath, Bikramganj, Dist. - Rohtas.
2. State Election Commission, Bihar, Patna.
3. District Magistrate, Rohtas at Sasaram.
4. Superintendent of Police, Rohtas.
5. Election Officer-cum-B.D.O. Dawath, Dist. Rohtas.
6. Sub-Divisional Officer, Bikramganj, Dist. Rohtas.
7. Officer in Charge, Dawath Police Station, Rohtas.
8. Dharmendra Chaudhary, S/o Shambhu Chaudhary, Resident of Nagar Panchayat Koath, Ward No. 12, Mohalla - Gangti, P.S. Dawath, Dist. Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan Singh, Advocate
For the State	:	Mr. Wasi Mohammad, AC to SC 6
For the S.E.C.	:	Mr. Sanjeev Nikesh, Advocate
For the Pvt. Respondent :		Mr. S.B.K. Manglam, Advocate
For the Nagar Panchayat:		Mr. Awnish Kumar, Advocate
		Mr. Vijay Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 23-06-2023 Heard Mr. Prabhat Ranjan Singh, learned Counsel for the petitioner appearing on behalf of the petitioner, Mr. S.B.K. Manglam, learned Counsel for the Respondent No. 8 as also Mr. Sanjeev Nikesh, learned Counsel for the State Election Commission.

The present writ petition has been filed for the following reliefs:-



(i) the returned candidate- Private Respondent, on the post of Chairman, Nagar Panchayat comes under ineligibility provided under Section 18(1)(6) of Bihar Municipal Act, 2007, as he was named accused in Nawanagar P.S. Case No. 298/2021 dated 05.08.2021 registered u/s 302/120B of I.P.C. and remained absconder for more than six (6) month and even on the date of filing of nomination, he was an absconder and even then he filed nomination and his nomination paper was accepted and after election, he was declared returned and as such his candidature and election is fit to be declared illegal.

(ii) petitioner further prays for fixing accountability upon the officer concerned like the S.H.O. of local police station who issued Character Certificate in favour of Private Respondent, the Returning Officer who despite of knowledge of the absconding status of private respondent, accepted his nomination paper and allowed him to contest the election and accordingly public money wasted in this instant election be also recovered from accountable officers.

At the outset, learned Counsel for the petitioner submits that taking into account section 18(g) of the Bihar Municipal Act, 2007, he has already preferred complaint before the State Election Commission, Bihar, Patna.



Learned Counsel for the petitioner submits that the respondent no. 8 is an accused in Nawanagar P.S. Case No. 298 of 2021 lodged on 05.08.2021 in which cognizance was taken on 10.03.2022 and the respondent no. 8 filed his nomination on 12.09.2022 when he was an absconder but no step was taken to get him arrested when he went to the Centre to file his nomination.

He submits that under section 18(g) of the Bihar Municipal Act, 2007, the respondent no. 8 is fit to be disqualified as he was an absconder for more than six months.

He accordingly submits that a complaint has already been lodged by him before the State Election Commission, Bihar, Patna (Annexure-7 to the writ petition) which was submitted on 03.01.2023. However, no step was taken by the Commission forcing him to knock the doors of this Court.

Mr. Sanjeev Nikesh, learned Counsel for the State Election Commission is present in the matter and after going through the aforesaid section of the 2007 Act concedes that if the complaint has been filed that will to be taken to its logical conclusion after hearing the concerned parties.

In that view of the matter, the writ petition stands disposed of with a direction to the State Election Commission,



Bihar, Patna to take up the said matter/complaint preferred by the petitioner, if still not taken up and after hearing the concerned parties, an appropriate order be passed preferably within a period of three months from today.

It is made clear that this Court has not gone into the merit of the case.

Before parting, this Court would like to put on record its word of appreciation for Mr. Prabhat Ranjan Singh, learned counsel for the petitioner for proper assistance in the matter.

(Rajiv Roy, J)

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