

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6543 of 2023**

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Rakhi Gupta Wife of Varun Prakash, Resident of Shriprakash Ornaments,  
Azad Road, Sahebganj, P.O. Chapra, P.S. Chapra Town, District- Saran at  
Chapra, Presently Mayor, Chapra Municipal Corporation, District- Saran at  
Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
3. The State Election Commissioner, The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna
4. The Officer-on-Special Duty, The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna
5. The District Magistrate-cum-District Election Officer (Municipality), Saran at Chapra, District- Saran at Chapra.
6. The Additional Collector, Saran at Chapra, District- Saran at Chapra.
7. Sunita Devi Wife of Shatrughan Rai, Resident of Mohalla- Dahiawan Tola, P.O. Chapra, P.S. Chapra Town, District- Saran at Chapra.

... .. Respondent/s

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**Appearance :**

|                      |   |                              |
|----------------------|---|------------------------------|
| For the Petitioner/s | : | Mr. S B K Manglam, Advocate  |
| For the Respondent/s | : | Mr. Abbas Haider, SC-6       |
| For the SEC          | : | Mr. Sanjeev Nikesh, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**CAV JUDGMENT**

**Date : 03-11-2023**

Heard Mr. S B K Mangalam, learned advocate for the petitioner, Mr. Abbas Haider, learned SC-6 representing the State of Bihar, Mr. Sanjeev Nikesh, learned advocate for the State Election Commission and Mr. Anshul, learned advocate for the respondent no. 7.



2. The petitioner, who had been holding the post of Mayor, Chapra Municipal Corporation, Saran at Chapra, by invoking the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India preferred the present writ petition for the following reliefs:

*(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 13.04.2023 passed by the Respondent no.3 in Case No.13 of 2023 (Sunita Devi Vs. Rakhi Gupta), whereby and where under the Respondent no.3 has been pleased to reject the petition dated 13.04.2023 filed by the petitioner challenging the maintainability of complaint filed by the Respondent no.7 against the petitioner under Section 18(2) of the Bihar Municipal Act, 2007 (hereinafter referred to as the Municipal Act).*

*(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the proceeding of Case No.13 of 2023 instituted by the State Election Commission under Section 18(2) of the Municipal Act against the petitioner to declare her disqualified to hold the post of Chief Councillor of Chapra Municipal Corporation on the ground that the petitioner is the biological mother of more than two children and last child was born to her after the cut off date i.e. 04.04.2008.*

*(III) For a declaration that if during the course of election a similar complaint was made against the*



*petitioner before the State Election Commission and after conducting an enquiry in the matter those records were consigned by the Commission the State Election Commission is not competent to institute a fresh case even under Section 18(2) of the Municipal Act.*

*(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.*

3. The short facts which led to the filing of the present writ petition is that the respondent State and the State Election Commission had notified the Municipal Election, 2022 in Chapra Municipal Corporation. The petitioner along with respondent no. 7 and many other candidates had filed their nomination for contesting on the post of Chief Councillor, Chapra Municipal Corporation. The nomination of the petitioner was put to challenge by one of the candidates, Smt. Rina Yadav, alleging that the petitioner had suppressed about her third child born to her after the cut off date i.e. 04.08.2008, attracting disqualification under Section 18(1)(m) of the Bihar Municipal Act, 2007 (hereinafter referred to as Act, 2007).

4. On receipt of the aforesaid complaint, the Returning Officer issued notice to the petitioner and the complainant Smt. Rina Devi, vide his Memo dated 25.09.2022. In response thereto, the petitioner appeared and rebutted the



allegation by filing her written statement on 26.09.2022 (Annexure – 3 to the writ petition). The Returning Officer after hearing the parties vide his order dated 26.09.2022, rejected the complaint of Smt. Rina Devi and accepted the petitioner's nomination and allotted the symbol to her.

5. On being aggrieved by the order dated 26.09.2022 passed by the Returning Officer, the complainant, Smt. Rina Devi filed another complaint before the State Election Commission, who proceeded in the matter and directed the District Magistrate cum District Election Officer (Municipality) Saran at Chapra to hold an enquiry into the complaint and to submit a report under letter dated 28.09.2022. The respondent no. 5 constituted a Committee under the Chairmanship of ADM for holding the enquiry. On notice, issued by the Chairman of the afore-noted Committee, the petitioner entered her appearance and apprised the Committee of the order passed by the Returning Officer dated 26.09.2022 and clarified that she has only two children by filing a detailed written statement.

6. The Committee headed by ADM submitted its report vide Memo No. 3185 dated 14.10.2022 (Annexure R-6 to the writ petition) showing inability to record a clear finding in absence of unimpeachable material in support of the complaint.



The aforesaid report has been submitted to the State Election Commission and having considered the report, the State Election Commission came to a considered conclusion, that the complaint did not require any consideration and accordingly, consigned the same.

7. The petitioner declared elected in the election for the post of Chief Councillor. Despite the matter having been settled, the respondent no. 7 instituted exactly similar complaint alleging suppression of the fact that the petitioner has three children, one born to her after the cut off date of 04.04.2008 attracting disqualification under the provisions of the Act.

8. Based on the aforesaid complaint, notices were issued after institution of case no. 13 of 2023 and consequent, thereupon vide Memo No. 441 dated 01.02.2023, the State Election Commissioner again directed the respondent no. 5 to hold an enquiry and to submit his report.

9. The very initiation of the proceedings and the notice was put to challenge by the petitioner in CWJC No. 3767 of 2023, on the ground, inter alia, that Rule 47 of the Bihar Municipal Election Rules, 2007 is clear in its operation and contemplates that any nomination accepted by the Returning Officer as valid, after rejecting the objection, attains finality.



Thus, the disqualification which is alleged against the petitioner had already considered and rejected by the Returning Officer, based on the complaint/objection filed by Smt. Rina Devi, which decision was also challenged before the State Election Commission and after considering the report of the Committee, the Commission came to a considered conclusion and consigned the complaint, hence, in any view of the matter, the initiation of a fresh proceedings on the similar complaint is not at all maintainable.

10. The aforesaid writ petition was heard and finally the petitioner sought permission to withdraw the writ application with liberty to raise all these issues before the State Election Commission in Case No. 13 of 2023. Accordingly, the permission was accorded to the petitioner, with the liberty aforesaid vide order dated 29.03.2023, the copy of which has been marked as Annexure P-10 to the writ petition.

11. In view of the liberty granted by the Hon'ble Court, the petitioner appeared before the State Election Commissioner (Respondent No. 3) on 13.04.2023 and filed her petition, raising preliminary objection against the maintainability of complaint filed by the respondent no. 7. The petition was heard at length and the judgment was reserved on



the point of maintainability, which was ultimately came to be rejected and further time was granted to the petitioner for filing her written statement for hearing of the case on merit fixing the date on 04.05.2023. The District Magistrate has also been requested to serve a copy of the notice along with the order dated 13.04.2023 to the parties, in order to ensure their presence. He has also been asked to remain present alongwith enquiry report as well as service report.

12. The petitioner being aggrieved, assailed the order dated 13.04.2023, which is impugned in the present writ petition, whereby the respondent no. 3 has been pleased to reject the preliminary objection of the petitioner, challenging the maintainability of complaint filed by the respondent no. 7 against the petitioner under Section 18(2) of Bihar Municipal Act, 2007. The petitioner by filing the present writ petition also sought quashing of the proceedings of Case No. 13 of 2023, apart from other reliefs as prayed for in paragraph 1 of the writ petition. During the pendency of the present writ petition, the respondent no. 3 vide his order dated 27.07.2023 has passed the final order declaring the petitioner disqualified to hold the post of Chief Councillor on the ground that writ petitioner is the mother of three children, out of which the third child born to her



after the cut off date i.e. 04.04.2008. The aforesaid order dated 27.07.2023 passed by the respondent no. 3 has assailed by the petitioner by filing interlocutory application bearing IA No. 01 of 2023 in the present writ petition.

13. While assailing the proceedings arising out of Case No. 13 of 2023 as also the impugned order dated 13.04.2023 and the final order dated 27.07.2023, Mr. Mangalam, learned counsel for the petitioner has submitted with all his vehemence that if Rule 47 of the Bihar Municipal Election Rules, 2007 has given finality to a decision of the Returning Officer, when he has considered a challenge to the nomination, but accepted the nomination after rejecting the objection, the power under Section 18(2) of the Bihar Municipal Act, 2007 cannot be invoked by the State Election Commissioner to sit in appeal over the orders of the Returning Officer. It is also submitted that once the nomination has been accepted by the Returning Officer, after rejecting the objection raised by the complainant, the decision of the Returning Officer would fall under the category of improper acceptance of a nomination and therefore, any person aggrieved by such decision of the Returning Officer can challenge the same in a duly constituted election petition before the prescribed authority



under Section 476 of the Municipal Act and no proceedings under Section 18 (2) of the Bihar Municipal Act, 2007 is maintainable. He next submitted that the disqualification of a candidate and improper acceptance of any nomination are also ground under Section 479 of the Municipal Act for declaring election of any candidate to be void.

14. Apart from the aforesaid submissions on the point of law, the petitioner has also submitted that the respondent no. 3 was not fair in conducting the proceedings of Case No. 13 of 2023, which would be evident from the fact that when the affidavited complaint was filed by the respondent no. 7 under Section 18(1)(m) of the Bihar Municipal Act, 2007 and this fact was brought to the notice by the petitioner on 05.07.2023 by filing a preliminary written statement, the respondent no. 3 has not asked the respondent no. 7 to correct the provisions of law and ignored the defect and proceeded to hear the complaint on merit. Further, the respondent no. 3 virtually has committed a contempt of this Court while passing stricture against the lawyer representing the petitioner that he has obstructed the administration of justice when he was well informed that the preliminary issue raised by the petitioner was under consideration before this Hon'ble Court. It is not at all material



as to whether any interim order was passed or not by this Court in favour of the petitioner, but if the respondent no. 3 was aware that the order dated 13.04.2023 is under challenge before the Hon'ble Court and the proceedings is going on, he ought not to pass the final order, taking Case No. 13 of 2023 as a special case.

15. While alleging the action of the respondent No. 3 actuated with malafide, several instances have been shown by giving specific case numbers and particulars showing pendency of similar complaints filed before the State Election Commissioner under Section 136 (2) of the Gram Panchayat Act, since 2021. But no special efforts is being made by the State Election Commissioner for early disposal of those cases, though therein also the issue of disqualification has been brought before the State Election Commission. He also submits that the respondent no. 3 was bent upon to declare the petitioner disqualified even without providing proper opportunity to defend her case. The impugned order does not discuss about the issue being raised on behalf of the petitioner regarding non supply of the correct documents and thus, the petitioner has been deprived of necessary documents brought on record by the respondent no. 7 in support of her complaint. Hence, violative



of the principles of natural justice. He lastly submits that the impugned order dated 27.07.2023 passed by the respondent no. 3 cannot be treated as an order passed by an impartial statutory authority and, therefore, cannot be sustained in law.

16. Per contra, Mr. Sanjeev Nikesh learned counsel representing the State Election Commission submits that the present is a glaring case of fraud as the petitioner has concealed the fact before the Returning Officer that she has given birth of her third child on 01.09.2017, which was given in adoption to Sri Thakur Prasad through absolute deed of adoption on 04.02.2022, the copy of the adoption deed has also been brought on record by way of Annexure- R 2-4/1 to the counter affidavit filed on behalf of Respondent Nos. 2 to 4. He submitted that undoubtedly the Election Commission has power to entertain a complaint under Section 18(2) of Bihar Municipal Act, 2007 to consider the pre and post disqualification of a member of the municipality and the Commission is not hearing an appeal against the order of the Returning Officer. Reliance has also been placed on judgments/orders of this Hon'ble Court, reported in 2019 (4) PLJR 673, 2020 (2) BLJ 663 as also the judgment dated 17.05.2017 and 19.05.2017 passed in CWJC No. 7410 of 2017 and 7202 of 2017, respectively.



17. He next submits that the petitioner anyhow trying to linger the case; that apart, she has not come to the Court with clean hand that she has given birth of her third child after the cut off date and the said child is given in adoption by a registered deed of adoption. The petitioner has knowingly concealed this fact and due to this, her nomination was accepted by Returning Officer in a summary proceedings, moreover, fraud vitiates every solemn act and the same is well settled by the catena of judgments/orders of the Hon'ble Apex Court as well as this Court. While concluding his submissions, he lastly submits that the petitioner has third child after cut off date i.e. 04.04.2008 and thus, in any view of the matter, the petitioner is disqualified to contest the municipal election under Section 18(1)(m) of the Bihar Municipal Act, 2007, which issue has also been set at rest by the Division Bench of this Court in CWJC No. 14221 of 2022 (Bhola Prasad Vs. State of Bihar and other analogous cases).

18. On the other hand, Mr. Anshul, learned counsel representing the respondent no. 7 submitted that all the efforts are being made by the petitioner to anyhow illegally retain the post of Chief Councillor by taking shelter of the technicalities, though the petitioner has been given sufficient opportunity to



rebut the allegation, but has not succeeded, moreover, the petitioner never denied the factum of registered adoption deed. He also concluded his submission that fraud vitiates every solemn act and it is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated.

19. This Court has given anxious consideration to the submissions made on behalf of the parties and also perused the materials available on record. Before delving into the merit of the case, it would be apposite to define the fraud. A fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression fraud involves two elements, deceive and injury to the person deceived. It is a cheating intend to get an advantage. Fraud implies intentional deception aimed or achieving some wrongful gains or causing wrongful loss or injury to another. [Vide *Dr. Vimla Vs. Delhi Administration* reported in *AIR 1963 SC 1572*, *Indian Bank Vs. M/S Satyam Fibres (India) Private Limited* reported in *1996 (5) SCC 550*, *K. D. Sharma Vs. Steel Authority of India Limited* reported in *2008 (12) SCC 481*, *Sasikala Puspa Vs. The State of Tamil Nadu* reported in *2019 (6) SCC 477*].

20. It is well settled proposition of law that when an applicant gets an order/office by making misrepresentation or



playing fraud upon the competent authority, such order cannot be sustained in the eyes of law. Fraud avoids all judicial acts ecclesiastical or temporal. [Vide ***S P Chengalvaraya Naidu Vs. Jagannath*** reported in ***AIR 1994 SC 853***]. It would be beneficial to quote paragraph no. 8 thereof:

*8. The facts of the present case leave no manner of doubt that Jagannath obtained the preliminary decree by playing fraud on the court. A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. Jagannath was working as a clerk with Chunilal Sowcar. He purchased the property in the court auction on behalf of Chunilal Sowcar. He had, on his own volition, executed the registered release deed (Exhibit B-1S) in favour of Chunilal Sowcar regarding the property in dispute. He knew that the appellants had paid the total decretal amount to his master Chunilal Sowcar. Without disclosing all these facts, he filed the suit for the partition of the property on the ground that he had purchased the property on his own behalf and not on behalf of Chunilal Sowcar. Non-production and even non-mentioning of the release deed at the trial tantamounts to playing fraud on the court. We do not agree with the observations of the High Court that the appellants-defendants could have easily produced the certified registered copy of Exhibit B-15 and non-suited the plaintiff. A litigant, who approaches the court, is bound to produce all the documents executed*



by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party.

emphasis supplied

21. In United India Insurance Co. Ltd. Vs. Rajendra Singh and Ors. reported in 2000 (3) SCC 581, the Apex Court observed that fraud and justice never dwell together and it is pristine maxim that has never lost its temper over all these centuries. The ratio laid down by the Supreme Court in various cases is that, “dishonesty should not be permitted to bear the fruit and benefit to the person who played fraud or made misrepresentation and in such circumstances, the Court should not perpetuate the fraud”.

emphasis supplied

22. Now coming to the submissions of the petitioner that the decision of the Returning Officer accepting or rejecting the nomination paper, on objection being made, shall be final under Rule 47 of the Bihar Municipal Election Rule, 2007 and the State Election Commission in no stretch of imagination is empowered to invoke the jurisdiction as envisaged under Rule 18(2) as an appellate authority against the decision of the Returning Officer is nothing but in the opinion of this Court quite appears to be misconceived.



23. Needless to observe that Section 18 (1) of the Bihar Municipal Act, 2007 deals with disqualification, which clearly contemplates, *inter alia*, that “notwithstanding anything contained in this Act, a person shall be disqualified for election or after election for holding the post as Member of the Municipality, if such person, has more than two living children”:-

*“provided that a person having more than two children on or up to the expiry of one year of the commencement of the Act, shall not be deemed to be disqualified”.*

24. Sub Section (2) of Section 18 further contemplates that, “if any question arises as to whether a Member of the Municipality at any level was disqualified before election or has incurred disqualification after election as provided under Section 243 (V) of the Constitution of India and subject to any of the disqualification mentioned in Section 475 or the subject to any of the disqualification mentioned in Sub-section (1) of Section 18 the question shall be referred for the decision of the State Election Commissioner. The matter of disqualification may be brought to the notice of the State Election Commission in the form of complaint, application or information by any



persons or authority. The State Election Commission may also take suo-moto cognizance of such matters and decide such matters expeditiously after allowing sufficient opportunity to the affected parties of being heard”.

25. The validity of the aforesaid provisions and the power of the State Election Commission to consider the issue of pre or post election disqualification of a candidate subject to a caution in respect of a case, which is in the nature of purely election dispute has also been affirmed by the learned Full Bench of this Court in case of *Rajani Kumari Vs. The State of Bihar* reported in **2019 (4) PLJR 673**.

26. It is worth noted here that the decision of the Returning Officer under Rule 47 of the Bihar Municipal Election Rules, 2007 is only confined to the acceptance or rejection of the nomination paper, if the same is found to be not in tune with Rule 43 or does not fulfill the requirement of valid nomination. The submission of the petitioner has found no force that the power under Section 18(2) of the Bihar Municipal Act cannot be invoked by the State Election Commission, if the issue regarding disqualification though was alleged before the Returning Officer, but could not be decided in absence of any relevant materials in support of the allegation. The person



aggrieved has indubitably right to raise the pre and post election disqualification under Section 18(2) of the Act, 2007 before the State Election Commission.

27. This Court has also minutely gone through the impugned order dated 27.07.2023, wherein, a detailed order has been passed dealing with the submissions made on behalf of the petitioner. It cannot be said that the petitioner has not been allowed proper opportunity to rebut the allegation, however, despite having been given sufficient opportunity and the adjournment having been taken by the petitioner, at no point of time, any written statement has been filed on the merit of the case denying the very factum of the registered adoption deed. It would also be worth mentioning here that the adoption deed dated 04.02.2022 executed by the petitioner and her husband in favour of Sri Thakur Prasad and Smt. Urmila Sharma contains the photograph of the petitioner, her finger print, aadhar card along with other particulars, but the same has not been controverted. If the adoption is done according to the Hindu Adoption and Maintenance Act, 1956 the adoption deed is valid and the same cannot be cancelled, even by the adopted father or mother or any other person, moreover, in the event there is a registered adoption deed, there is a presumption of validity with



respect to said adoption under Section 16 of the Hindu Adoption and Maintenance Act, 1956 unless and until, such presumption is disproved.

28. For better appreciation Section 16 of the Hindu Adoption and Maintenance Act, 1956 is quoted herein:

*“16 Presumption as to registered documents relating to adoption. — Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.”*

29. So far the submission made on behalf of the petitioner regarding the action of respondent no. 3, actuated with malice or malafide is concerned, the same does not inspire any confidence, in absence of impleading the respondent no. 3 as party respondent by his name. “It is well settled legal proposition that in case allegations of malafide are made against any person he is to be impleaded by name, otherwise the allegation cannot be considered”.

30. In the ***State of Bihar Vs. P.P. Sharma***, reported in ***AIR 1991 SC 1260***, the Hon’ble Supreme Court explained the juristic significance of malafides and the questions that need to



be examined while considering plea based on malafides.

*“Mala fides means want of good faith, personal bias, grudge, oblique or improper motive or ulterior purpose. The administrative action must be said to be done in good faith, if it is in fact done honestly, whether it is done negligently or not. An act done honestly is deemed to have been done in good faith. An administrative authority must, therefore, act in a bonafide manner and should never act for an improper motive or ulterior purposes or contrary to the requirements of the statute, or the basis of the circumstances contemplated by law or improperly exercised discretion to achieve some ulterior purpose. The determination of a plea of mala fide involves two questions, namely (i) whether there is a personal bias or an oblique motive, and (ii) whether the administrative action is contrary to the objects, requirements and conditions of a valid exercise of administrative power. The action taken must, therefore, be proved to have been made mala fide for such considerations. Mere assertion or a vague or bald statement is not sufficient. It must be demonstrated either by admitted or proved facts and circumstances obtainable in a given case. If it is established that the action has been taken mala fide for any such considerations or by fraud on power or colourable exercise of power, it cannot be allowed to stand.”*

31. This Court has also gone through the enquiry



reports as contained in Memo No. 3185 dated 14.10.2022 (Annexure P-6) as well as Letter No. 834 dated 02.03.2023 (Annexure R 2-4/2 of the counter affidavit filed on behalf of respondent Nos. 2 to 4). In the earlier report, it is suggested that when the petitioner was asked to submit her explanation on the complaint allegedly made by Smt. Rina Yadav, she has admitted that the child, “Shrish Prakash” is the son of her elder sister and he has been residing with her for his upbringing. But, when the birth certificate of the child was asked for, it has been conveniently said by the petitioner, that his parents have gone to attend marriage outside the State and the concerned document are with them, which would be produced later on, it will take time and finally, the same has not been produced.

32. Further in the later enquiry, when the complainant (Respondent No. 7) has produced copy of the registered adoption deed dated 04.02.2022, which was also verified by the Sub-Registrar, Saran at Chapra, and the petitioner was asked to submit her explanation, she filed an application and stated that entire papers/documents are with the conducting lawyer, who was out of station on the eve of Holi Festival and his residence is also closed, thus she prayed for a month time to submit her explanation.



33. At no point of time, either in earlier enquiry or later enquiry and before the State Election Commission or this Court the petitioner has produced the birth certificate of the child, namely, “Shrish Prakash”, who has been candidly admitted by the petitioner to be son of her elder sister. Further, the petitioner never denied the deed of adoption and her photograph, signature, finger prints and the particulars mentioned therein.

34. To the utter shock and surprise of this Court, that despite having been produced the registered adoption deed, showing the third child of the petitioner giving in adoption to Shri Thakur Prasad and Smt. Urmila Sharma, the petitioner has continuously litigating by defending the complaints filed against her only on the point of technicalities. It is also to be noted that in the entire pleadings, the petitioner has not questioned the validity and veracity of the registered adoption deed dated 04.02.2022.

35. Well settled it is that the technicalities is only to subserve the administration of justice and it must not defeat the substantial justice. All the efforts of the petitioner is only to confine her case to the technicalities of the law but never ever endeavour has been made to question the genuineness, legality



and veracity of the adoption deed or its particular.

36. The materials available on record, especially the reply/explanation of the petitioner filed at different stages also suggested the clandestine move of the petitioner not to disclose the true facts only in order to retain and usurp the post, for which she is otherwise disqualified in terms of Section 18(1)(m) of the Bihar Municipal Act, 2007.

37. It is further to be noted that while exercising the power of judicial review, the Court can review to correct errors of law or fundamental procedural requirements, which may lead to manifest injustice and can interfere with the impugned order, but this Court having gone through the impugned order(s) does not find any infirmity or perversity, warranting any interference.

38. It would also be relevant to observe here that judiciary should prioritize doing justice over legal technicalities, all the more, when the case is based only on technicalities as a result of legal acumen.

39. In view of the facts, circumstances and the discussions made hereinabove; as also, *prima facie*, on being satisfied that the petitioner has not been playing fair with the authorities or the Court as she is neither disclosing the true facts regarding the parentage of the child, “Shrish Prakash” nor



challenging the genuineness and veracity of the adoption deed, showing lack of fairness apart from her audacity to adopt the inequitable move, based only on technicalities, this Court has no hesitation in dismissing the writ petition by imposing a cost of Rs. 20,000/-, which shall be deposited in the account of Patna High Court Legal Services Authority within a period of four weeks from today.

40. The present writ petition stands dismissed with the cost aforementioned.

**(Harish Kumar, J)**

shivank/-

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