

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11510 of 2019

Arbind Kumar Verma, Son of Late Dasrath Prasad Verma, R/o Mohalla-Shivpuri (Raza Bazar), P.S.- Shastrinagar, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The State Election Commission (Panchayat) Patna through State Election Commissioner, Sone Bhawan, Birchand Patel Path, Patna
3. The District Magistrate-cum-District Election Officer (Corporation) Patna, District-Patna
4. The District Development Commissioner cum-Election Officer Patna Municipal Corporation, Patna
5. The Circle Officer Patna
6. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna
7. The Municipal Commissioner, Municipal Corporation, Patna
8. Deepa Rani Khan @ Deepa Rani, D/o Late Jagbandhu Bera R/o Mohalla-Patliputra Galaxy Apartment, Flat No. 201, Madarsa Road, Samanpura, P.S.- Shastrinagar, District-Patna, presently Ward Councillor, Ward No. 5-cum-member of Standing Committee, Patna Municipal Corporation, District-Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Advocate
For the Respondent/s	:	Mr. Subash Prasad Singh, GA-3
		Mr. Dilip Kumar, AC to GA-3
For the PMC	:	Mr. Yashraj Bardhan, Advocate
For the S.E.C.	:	Mr. Sanjeev Nikesh, Advocate
For the Resp. No. 8	:	Mr. Bindhyachal Singh, Sr. Advocate
		Mr. Bipin Kumar Singh, Advocate
For Private Respondent	:	Mr. Ranjeet Choubey, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 25-09-2023

Heard Mr. Dhananjay Kumar, learned counsel appearing on behalf of the petitioner, Mr. Sanjeev Nikesh, learned counsel representing the State Election Commission and Mr. Bindhyachal Singh, learned senior counsel, duly assisted by Mr. Bipin Kumar, learned counsel for the Patna Municipal



Corporation. Mr. Subhash Prasad Singh, learned GA-3 is also present.

2. The petitioner by preferring the present writ application challenging the legality of the order dated 11.04.2019 (Annexure-7) passed by the State Election Commissioner, Bihar, Patna in Case No. 4 of 2019 whereby the complaint of the petitioner with regard to caste of respondent no.8 has been rejected and held her to be a member of Extremely Backward Class and directed to continue on her post, differing from the report of the District Administration, who after enquiry arrived at the conclusion that respondent no.8 belongs to Scheduled Tribe category.

3. Before coming to the merit of this case, a preliminary objection has been raised with regard to maintainability of the writ petition, inter alia, the petitioner was not the candidate and furthermore, the election with respect to which complaint was filed by the petitioner is already over and the term of the respondent no.8 has already come to an end. Fresh election has also been over in the year 2021, thus the cause of action does not survive.

4. Submission has been made on behalf of the petitioner that so far Rule 18(2) of the Bihar Municipal Act,



2007 is concerned, it is needless to mention that the disqualification may be brought to the notice of the State Election Commission in the form of complaint application or information by any person or authority and, as such, the petitioner being the husband of Hemlata Verma, who was a candidate in the election, is competent enough to maintain the present writ petition.

5. He further submits that so far the another objection with regard to the maintainability of the present petition on account of term of the election having been complete and a new election has been conducted, the same is wholly misconceived. Since the order of the State Election Commission has wider ramification, which will remain in force till the same would not be tested by this Court. Nonetheless, the petitioner had also made an objection at the time of filing nomination of respondent no.8 in the year 2021, the same has been rejected on the strength of the order impugned dated 11.04.2019, passed by the State Election Commission. He further drew the attention of this Court to the impugned order passed by the State Election Commission and with reference thereto he submits that the impugned order is bad for the various reasons, apart from cryptic and non-application of mind.



6. Without going into the merit of the order, *prima facie*, this Court is satisfied that during the pendency of the present writ petition, subsequent election has already been held and the respondent no.8 has been declared as successful candidate for the post of Ward Councillor, thus a new cause of action has arisen and for which the petitioner is not remediless.

7. In such circumstances, on a prayer made by the petitioner, the writ petition is disposed of with liberty to the petitioner to file a fresh application before the Caste Scrutiny Committee in view of the judgment rendered by this Court in the case of **Bajnath Singh Vs. The State of Bihar & Ors., 2014 (4) BLJ 638**, if so advised.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.09.2023
Transmission Date	NA

