

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15037 of 2022

Happy Nitu Singh @ Nitu Singh Wife of Dharmendra Kumar @ Dharmendra Kumar Singh Resident of Village- Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through, The Principal Secretary, Bihar Gram Panchayat Raj Department, Bihar, Patna.
2. The Principal Secretary, Bihar Gram Panchayat Raj Department, Bihar, Patna.
3. The Election Commission, Bihar Panchayat Election Commission, Bihar, Patna.
4. The Secretary, The State Election Commission, Sone Bhawan, Birchand Patel Path, Patna.
5. The District Magistrate-Cum-District Election Officer, Samastipur, District-Samastipur.
6. The Returning Officer (Panchayat Election, 2021)-Cum-Block Development Officer, Mohiuddin Nagar, Police Station- Mohiuddin Nagar, District-Samastipur.
7. Sandhya Devi Wife of Ajay Kumar Singh Resident of Village- Chapar, Police Station- Mohiuddin Nagar, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rabindra Prasad Singh, Advocate
For the Respondent/s	:	Mr. Satya Vrat, AC to GP-10
For the S.E.C.	:	Mr. Girish Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 01-05-2023 Heard learned counsel for the petitioner, learned counsel for the State and learned Senior counsel for the private Respondent No. 7, Mr. Amit Srivastava, assisted by Mr. Rajesh Kumar Pandey along with learned counsel for the State Election Commission, Mr. Girish Pandey

The learned counsel for the petitioner submits that the present writ application has been filed seeking quashing of an *ex-parte* order dated 25.04.2022 and 26.08.2022 in Election



Petition No. 02 of 2022 (Sandhya Devi Vs. The Returning Officer & Anr.) passed by the learned Munsif, Shahpur, Patori whereby and whereunder the learned Trial Court has seized the power of the petitioner as *Mukhiya* by order dated 25.04.2022 and the application filed for recalling the order dated 25.04.2022 was rejected by order dated 26.08.2022.

The learned counsel for the petitioner next submits that the Election Petition No. 02 of 2022 was preferred by Sandhya Devi challenging the election of the petitioner, a returned candidate, who was elected as *Mukhiya*.

The learned counsel for the petitioner next submits that the Trial Court is proceeding in the matter, but during pendency of the election petition, the order dated 25.04.2022 was issued seizing the power of the petitioner as *Mukhiya*. It is next submitted that the said order dated 25.04.2022 is illegal for the reason that there is no provision in the Bihar Panchayat Raj Act to seize the power of the *Mukhiya* during pendency of an election petition.

The learned Senior counsel for the private respondent no. 7 does not object to the prayer made by the learned counsel for the petitioner, however, submits that in the event, if the writ application is allowed, a direction be also issued upon the



learned Trial Court to conclude the proceeding of Election Petition No. 02 of 2022 within a time frame.

The prayer of the petitioner is not objected by the learned counsel for the State and learned counsel for the State Election Commission.

Considering the submissions made by the learned counsel for the parties, the writ application is allowed.

The order dated 25.04.2022 and 26.08.2022 in Election Petition No. 02 of 2022 is hereby set aside.

The writ application is, thus, disposed of with a further direction to the learned Trial Court to conclude the Election Petition No. 02 of 2022 expeditiously preferably within a period of three months from the date of receipt/production of a copy of this order.

The learned counsel for the petitioner, at this stage, gives an undertaking on behalf of the petitioner that the petitioner shall appear in the election petition on day to day basis.

(Satyavrat Verma, J)

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