

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18195 of 2022

=====

Md. Zaffar Hussain, S/o Md. Abdur Rashid, Village- Kathalbari (Padampuar),
P.S. - Dighalbank, District- Kishanganj.

... .. Petitioner/s

Versus

1. State of Bihar through the Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna.
3. The State Election Commissioner, Sone Bhawan, Birchand Patel Path, Patna.
4. The Secretary, State Election Commission, Sone Bhawan, Birchand Patel Path, Patna.
5. The Collector, Kishanganj.
6. Block Development Officer, Dighalbank.
7. Circle Officer (C.O.) Thakurganj.
8. Zeba Bakhtiyar W/ Shahjahan, R/o Ward No. - 11, Padampur, P.S. - Dighal Bank, District - Kishanganj.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Mahendra Pratap, Advocate
For the Respondent/s	:	Mr. Satishwar Prasad, AC to SC-7
For the Election Comm.	:	Mr. Sanjeev Nikesh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-08-2023

Heard Mr. Mahendra Pratap, learned counsel appearing on behalf of the petitioner. The Election Commission is represented by Mr. Sanjeev Nikesh, learned counsel. Mr. Satishwar Prasad, learned AC to SC-7 appears on behalf of the State.

2. The petitioner, being one of the electoral candidate in the election held on 03.11.2021 for the post of Mukhiya, has



preferred the present writ application seeking quashing and setting aside the election of Zeba Bakhtiyar (respondent no.8), who was returned as successful candidate for the post of Mukhiya of Jahangir Padampur Gram Panchayat under Dighalbank Block, Kishanganj on 13.11.2021, the election of which was notified and subsequently held on 03.11.2021. The aforesaid seat of the Mukhiya of Jahangir Padampur Gram Panchayat was reserved for Extremely Backward Class (Female category) for the election held in 2021 and the respondent no.8 claiming her caste as 'Morsikar', which falls under EBC category, filed nomination and finally succeeded and returned as successful candidate.

3. The petitioner after having come to know that there is some discrepancies in the caste name of respondent no.8, filed a complaint before the Circle Officer, Thakurganj, Kishanganj for cancellation of her caste certificate, however, the complaint of the petitioner came to be rejected. The petitioner further submitted another complaint before the Public Grievance Redressal Committee, Kishanganj for cancellation of her caste certificate, which was numbered as Cancellation Case No. 01 of 2021. The aforesaid complaint again met to the same fate and dismissed vide order dated 03.01.2022.



4. Aggrieved by the aforesaid order, the petitioner preferred appeal, bearing Appeal Case No. 02 of 2022, before the District Magistrate, Kishanganj. The said appeal has been allowed and the caste certificate issued in favour of respondent no.8 as 'Morsikar' (Muslim) being Extremely Backward Class by the Circle Officer, Thakurganj stood cancelled.

5. It is contended that after cancellation of the caste certificate of respondent no.8, as stated above, the petitioner filed a complaint before the State Election Commission, Bihar, Patna for disqualifying respondent no.8 to hold the post of Mukhiya of the said Gram Panchayat.

6. At this juncture, learned counsel appearing on behalf of the State Election Commission submits that the State Election Commission is the competent authority under the Act to examine a complaint as to whether the respondent no.8 is demonstrably able to satisfy the eligibility qua her caste as 'Morsikar' falling under the Extremely Backward Class (Female category), for which post was reserved. He further submits that as per his instruction, the matter has been referred to the Caste Scrutiny Committee for final decision regarding the caste of respondent no.8 and, as such, the present writ application is premature.



7. Considering the fact that the matter is pending before the State Election Commission, who in turn referred it before the Caste Scrutiny Committee, awaiting final decision regarding the caste status of respondent no.8, at present, no interference is called for. However, it is needless to observe that whoever is charged with some misconduct, he/she is entitled to be given a show-cause, calling upon the person to explain as to why appropriate and consequential order be not passed. Once such show-cause is submitted, it is incumbent upon the State Election Commission to consider all the defence and thereafter to arrive at a final conclusion on the issue raised before it.

8. Accordingly, the present writ application stands disposed of.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2023
Transmission Date	NA

