

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20642 of 2019

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Md. Waris Ansari Son of Late Md. Rafique @ Rafique Ansari, Resident of
Village-Bhuwara Gawa Pokhar, Ward, No. 24, P.S. and District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Election Commissioner, State Election Commission, Bihar, Patna.
2. The Joint Election Commissioner, State Election Commission, Bihar, Patna.
3. The Districty Magistrate Cum District Election Officer, Madhubani.
4. The Returning Officer Cum Sub Divisional Officer, Sadar, Madhubani.
5. The Sub Election Officer, Sadar, Madhubani
6. The Executive Officer, Nagar Parishad Madubani.
7. Smt. Raisa, W/o Md. Barkattulla, R/o Village-Gawa Pokhar, Ward No.24, P.O.-Bhowara, District-Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Namrata Mishra, Advocate Mr.Ratanakar Jha, Advocate
For MC	:	Mr. Nilesh Kr. Choudhary, Advocate
For SEC	:	Mr. Sanjeev Nikesh, Advocate
	:	Mr. Girish Pandey, Advocate
For the State	:	Ms. Sanghmitra Ghosh, AC to GA-7

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 03-07-2023 Heard Mrs. Namrata Mishra, learned counsel for the

petitioner duly assisted by Mr. Ratanakar Jha, Mr. Girish

Pandey, for the State Election Commission as also Ms.

Sanghmitra Ghosh, AC to GA-7.

The present petition has been preferred for the
following relief:

- (i) to issue an appropriate order/s, direction/s
including a writ preferably in the nature of
Certiorari for quashing the part order dated



29.3.2019 passed in case no. 55/18 by the respondent no.1 by which he directed the District Magistrate, Madhubani to take action against the petitioner under section 447 of the Bihar Municipality Act who himself has with intent to be elected in election with false information;

(ii) to quash the letter no. 2954 dated 16.8.2019 passed by the District Magistrate cum District Election Officer, Madhubani directing the SDO, Sadar, Madhubani to lodge FIR under section 447 of Bihar Municipal Act, 2007 against the petitioner;

(iii) to quash the order as contained in memo no. 395 dated 24.8.2019 passed by the Returning Officer cum Sub Divisional Officer, Sadar Madhubani by which Sub Election Officer, Sadar Madhubani has been directed to lodge First Information Report against the petitioner under section 447 of Bihar Municipal Act, 2007.

Learned counsel for the petitioner, Mrs. Namrata



Mishra submits that it was a bona fide mistake which has resulted into even lodging of the FIR and it is her further submission that although the direction was there to lodge the FIR only under section 447, 420 of the IPC has also been incorporated in it.

Learned counsel for the petitioner although concedes that he has other remedy also so far as the incorporation of section 420 of the IPC grievance is concerned.

In the present case, the respondent nos. 3 to 6 have filed counter affidavit duly sworn by the Sub-Divisional Magistrate, Sadar, Madhubani and in paragraph 12 it has been incorporated as follows:

" That as far as the averments contained in para 9 and 10 of the writ petition is concerned, it is submitted that the petitioner was found guilty of suppression his involvement in Town P.S. Case No. 239/1997 in the affidavit annexed with the nomination paper by the State Election Commissioner, Bihar, Patna in case No. 55 of



2018 and accordingly vide order dated 29.3.2019 the District Magistrate cum-District Election Officer, Madhubani was directed to take appropriate action against the petitioner under section 447 of the Bihar Municipal Act, 2007".

In that view of the matter, this Court does not deem it fit and proper to extend any relief to the petitioner.

The order passed by the respondents is/or just and proper.

The petitioner always have the liberty to approach the appropriate forum relating to its grievance that although the direction was only for lodging of the FIR under section 447 of the IPC by the State Election Commission, Bihar to the District Administration, they have exceeded by incorporating section 420 of the IPC.

The petition lacks merit and is accordingly dismissed.

(Rajiv Roy, J)

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