

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15992 of 2023

Switi Devi Wife of Shri Arvind Kumar, Resident of ward no. 14, Bari Ballia, P.S.- Ballia, District Begusarai, Bihar- 851211, Presently Deputy Chief Councilor, Ballia Nagar Parishad, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. District Magistrate-cum-District Election Officer, (Panchayat), Begusarai.
3. State Election Commission, Bihar, Patna through the State Election Commissioner, 3d floor, Sone Bhawan, Veer Chand Patel Path, Patna.
4. The State Election Commissioner, 3rd floor, Sone Bhawan, Veer Chand Patel path, Patna.
5. Md. Shahzudamma, Son of Md. Shamshadumma, Resident of ward no. 21, village and P.O.- Lakhminia, P.S.- Ballia, District -Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Bindhayachal Singh, Senior Advocate Mr.Ranjeet Choubey, Advocate
For the Election Comm.	:	Mr.Girish Pandey, Advocate
For the Respondent/s	:	Mr.Deepak Kumar, AC to AAG 7

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 14-12-2023 Heard Mr. Bindhayachal Singh (learned Senior Advocate) assisted by Mr. Ranjeet Choubey, learned counsels appearing on behalf of the petitioner; Mr. Deepak Kumar, learned AC to AAG 7 for the respondents and Mr. Girish Pandey, learned counsel for the Election Commission.

2. The petitioner has claimed for following relief(s) :-

“i For issuance of an appropriate writ in the nature of certiorari or any other writ of similar nature for quashing the proceeding of case no.27 of 2023 (Md. Shahzadumma & Ors. Vs. Switi Devi) pending before Respondent State Election



Commission, Bihar, Patna on the ground that not only entire proceeding is an illegality but also without any jurisdiction.

ii. For a declaration that if statute prescribes a particular act to be done in a particular manner then it should be done in that manner alone or not at all and other means are not only necessarily prohibited but also constitute illegality.

iii. For issuance of an appropriate writ in nature of ad interim stay of the entire proceeding of the case no.27/2023 pending before respondent State Election Commission on the ground that the entire proceeding is without jurisdiction.

iv. For issuance of any other appropriate writ/writ, order/orders, direction/directions for which the writ petitioner is entitled under the facts and circumstances of the case.”

3. Mr. Bindhayachal Singh, learned Senior Advocate appearing on behalf of the petitioner submitted that the State Election Commission without deciding the preliminary objection raised by the petitioner has proceeded to decide Case No.27 of 2023 (Md. Shahzadumma & Ors. Vs. Switi Devi) on merits, which is not in accordance with Hon’ble Full Bench judgment reported in **2019 (4) PLJR 673 (Rajani Kumari Vs. State Election Commission & Ors.)**.

4. Considering the aforesaid fact and the decision of the Hon’ble Full Court reported in **2019 (4) PLJR 673** (supra), the State Election Commission is directed to first decide the preliminary issue and he is made cautious that once the issue relating to maintainability of a petition is made before him, he is



legally bound to decide the same first and then adjudicate the case on merit.

5. With the above direction/direction, the present writ petition is disposed of.

(Purnendu Singh, J)

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