

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18331 of 2022

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Saraswati Devi Wife of Laxmi Sahni, Resident of Lallupokhar, Gorhi Tola,
P.S.- Kasim Bazar, District- Munger.

... .. Petitioner/s

Versus

1. The Commissioner, the State Election Commission, Bihar, Patna.
2. The State of Bihar, through the District Magistrate-cum-District Election Officer, Munger.
3. The Deputy Development Commissioner, Munger.
4. Babita Devi Wife of Subodh Sahni, Resident of Lallupokhar Gorhi Tola,
P.S.- Kasim Bazar, District- Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sadanand Paswan, Advocate
For the Respondent/s	:	Mr. Subhash Pd. Singh, GA 3
For the S.E.C.	:	Mr. Sanjeev Nikesh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 09-08-2023 Heard the parties.

The present petition has been preferred for the
following reliefs:-

*A) (i) order dated 1.11.2022 and 2.11.2022
passed in Case No. 96/2022 by which the office of the
State Election Commission noted that the petitioner filed
the case for cancellation of Nomination of respondent
Babita Devi with respect to Ward No. 31 Munger
Municipal Corporation on the ground that he had five
Children after cut off date 4.4.2008 the power of
approved or disproved of the nomination with come*



within the jurisdiction of Election Officer. After rejecting or accepting of the nomination of the candidate the State rejecting or accepting of the nomination of the candidate the state election commission has got no appellant jurisdiction. As per section 18(M) of Bihar Municipal Corporation election 2007, the State Election Commission to get power to decide the same. The said Office note of election State Election Office has been approved by the Special Officer Bihar Election Commission on 2.11.2022;

(ii) to cancel the nomination of Babita Devi Respondent No.04 filed by her for the post of Ward Councilor Ward No. 31 Munger Municipal Corporation;

(iii) to hold Babita Kumari Respondent No.4 is a mother of 5 children, she is not illegible to contest the election of Ward Councilor.

(iv) to hold the accepting of nomination paper respondent no.03 is illegal & without jurisdiction.

(B) a writ in the nature of mandamus or any other appropriate writ order/ orders/ direction/ directions commanding the respondent for the following:-

(i) to treat the order contain in Annexure-5 are



nonest in the eye of law;

(ii) to hold that the order contained in Annexure-5 is non speaking order and same is not sustainable in the eye of the law.

Mr. Sanjeev Nikesh, learned Counsel for the State Election Commission submits that Election Case No. 96 of 2022 on the same issue is pending and is being taken up by the State Election Commission.

Accordingly, the same is disposed of with the direction to the respondent no. 1, the State Election Commission to expedite the same and take it to its logical conclusion preferably within a period of six months.

The writ petition stands disposed of.

(Rajiv Roy, J)

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