

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25663 of 2019

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Satya Prakash Son of Umeshwar Singh, resident of village- Aiyara, P.S.-
Karpi, District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Bihar State Co-Operative Department Govt. of Bihar, Patna.
3. The Secretary, Bihar State Election Authority, Harding Road, Patna.
4. The Joint Secretary, Bihar State Election Authority, Harding Road, Patna.
5. The District Election Authority cum District Magistrate, Arwal.
6. The Election Officer (Co- Operative Society) cum Block Development Officer, Karpi Block District- Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
For the Respondent/s : Mr. Mukesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

11 31-07-2023 Heard Mr. S.B.K. Mangalam learned counsel for the

petitioner as also Mr. Mukesh Kumar who represent Election

Commission and the State.

2. The present writ petitioner has been filed for the
following reliefs:-

*(i) For issuance of writ/writs,
order/orders, direction/ directions for quashing the
memo no. 2361 dated 17.12.2019 issued by
respondent no. 4 whereby and under the
respondent no. 4 issued notification for cancelled*



election on booth no. 1(K) and 1 (Kh) of Aiyara Primary Agriculture credit Society which was held on 13.12.2019 and fixed the dated of re- election on 20.12.2019 counting has also done on 20.12.2019 after the election especially when the counting process of votes has been over on 14.12.2019;

(ii) to direction the respondent s to issued certificate in favour of petitioner who is deleared win from 72 votes in the Election of the post of Chairman of Aiyara Primary Agriculture credit society under Karpi Block Arwal for which election was held on 13.12.2019 and counting of votes was over on 14.12.2019;

(iii) to direct the respondent no. to immediately 5 stopped/restrained the re-election of Booth no. 1(k) and 1/Kh) of Aiyara Primary Agriculture Society, Karpi Block, Arwal which is going to be held on 20.12.2019.

3. It is the case of learned counsel for the petitioner that the election for the post of Chairman, Aiyara Primary Agriculture Credit Society, Karpi Block, Arwal was conducted



on 13.12.2019 in a very peaceful manner.

4. However, the Election Officer-cum-Block Development Officer Karpi vide letter no. 1970 dated 14.12.2019 informed that there was some discrepancy and later it came to know that the ballot paper which were assigned for booth 1(k) was given to booth 1(kha) for the time of extra 100 ballots. Although the same was not used in favour of anyone and the election process was completed in a very peaceful atmosphere and the details of the ballot was/were also incorporated according to which total 924 votes were polled and the petitioner herein was ahead with 72 votes vis-a-vis the second candidate.

5. However, the State Election Authority vide memo no. 2361 dated 17.12.2019 wanted re-election on 20.12.2019 followed by result on the same day with regard to booth 1-(k) and booth 1-(kha) (Annexure -5 to the petition).

6. The same has been challenged by the petitioner on the ground that there was no illegality/irregularity in the polling and only according to the report, extra 100 ballot papers were given on booth no. 1-(kha).

7. He has drawn attention of this court to the Annexure that has come in the counter affidavit of respondent



nos. 5 and 6 (Annexure- A) the letter no. 1970 dated 14.12.2019 by which the observer of the said block sent a report to the Election Authority on the same day itself that there was no illegality rather only ballot paper no. 1001 to 1100 were given to the booth no. 1-(kha).

8. He submits that in view of the said report given by the observer cum Chief Executive Officer, (Jahanabad), there was no need for re-polling and in the process, the petitioner was denied the legitimate chance to become the Chairman for which the polling took place.

9. Learned counsel for State Election Authority has made a preliminary objection since the result was not announced, the election process has still not finished and in, that background, the petitioner ought to have moved before the Election Authority and only after the passing of the order, the writ jurisdiction could have been invoked.

10. This court although has incorporated all the facts which clearly show that as per the report given by the Observer, no illegality took place and in any case, the petitioner was ahead with 72 votes, in view of the preliminary objection made by State Election Authority that the election process was not over disposes of the writ petition with a direction to the petitioner to



move before the State Election Authority who shall take immediate steps and dispose of the petition after hearing all the parties within next three months.

11. The interim protection granted to the petitioner earlier to continue till the final order passed by the State Election Authority.

(Rajiv Roy, J)

Jagdish/Jyoti/-

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