

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6531 of 2024

Sushma Devi W/o Madhusudan Tiwary Resident of village - Barahshankar,
P.S- Patahi, District- East Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The District Magistrate cum District Election Officer, East Champaran.
3. The Circle Officer cum Assistant Returning Officer, Patahi Block, East Champaran.
4. Mrs. Ranjana Singh W/o Ravi Shankar Singh Resident of Sakin Mauja - Bara Shankar, Thana - Patahi, District - East Champaran.
5. Mrs. Divya Kumari D/o Vinod Singh Resident of Sakin Mauja - Bara Shankar, Thana - Patahi, District - East Champaran.
6. Mrs. Vimla Devi W/o Vinod Singh Resident of Sakin Mauja - Bara Shankar, Thana - Patahi, District - East Champaran.
7. Gulshan Ara W/o Nurul Hoda Mauja Bara Shankar Tola Mohhamadpur, Thana - Patahi, District - East Champaran.
8. Sunaina Devi W/o Lalbabu Singh Mauja Bara Shankar Chaktiwal, Thana - Patahi, District - East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhinav Alok, Advocate
For the State	:	Mr. Ravi Kumar, AC to GP-13
		Mr. A. Lal Prasad, AC to GP-13

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 16-07-2024 Heard learned counsel for the parties.

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

*I. for issuance of writ in the nature of
Certiorari for setting aside the Order dated
04.03.2024 passed by Learned Civil Judge
(Jr. Div), Motihari in Election Petition 13 of
221, whereby and where under Learned
Civil Judge (Jr. Division) Motihari has*



allowed the Election Petition in favour of Opposite Party No.4 who had filed the Election Petition and contested the election against the petitioner for the post of Sarpanch of Gram Panchayat, Barashankar, Patahi and petitioner was the successful candidate in the Election and Learned Court below allowed the election petition and set aside the result of election and further directed to prepare fresh election result sheet which is contrary to the provision of Rule 112 Bihar Panchayat Election Rules, 2006.

II. for staying the Order Dated: 04.03.2024, passed by Civil Judge (Jr.Div.) Motihari till the disposal of the Writ application.

III. for Issuance of Writ in the nature of Mandamus Directing the Respondent Authority to continue the petitioner as Sarpanch of Gram Panchayat, Barashankar, Patahi till the disposal of present writ application.

IV. for any other order/s, direction/s, relief/s



which may the petitioner is entitled in the eye of law.

3. The petitioner is aggrieved by the order dated 04.03.2024 passed by Ms. Chandani Gupta, learned Civil Judge (Jr. Division), Motihari in **Election Petition No. 13 of 2021 (CIS No. 13 of 2021) (Ranjana Singh vs. Sushma Devi & Ors.)** preferred by the respondent no.4, Ranjana Singh for setting aside the election of returned candidate, Sushma Devi (the petitioner herein) for the post of **Sarpanch, Gram Panchayat Barahshankar, Patahi** in the year 2021. She also wanted her to be declared elected.

4. After hearing the parties, recording the statements of the petitioner and perusing the records, the Court decided the issues as follows:-

Issue No. I and II: Is the election petition as framed is maintainable? Has the plaintiff got valid cause of action for this election petition?

Since petitioner has succeed to prove her case that there were some irregularities committed while preparing the final result sheet of Form-20 (part-2) and Form-21 that



effected the final result and consequently a candidate with third highest number of valid votes declared winner. And according to the section 137 of the Bihar Panchayati Raj Act, 2006, once any candidate declared as winning in election of any office of Gram Panchayat shall not be called in a question except by an election petition. As such petitioner has valid cause of action to filed this election petition. And thus, election petition filed by petitioner as framed is maintainable. Accordingly, these issues are also decided in favour of petitioner.

Issue No. IV and V: Whether the result of election of post of Sarpanch of Village Panchyat, Barashankar.P.S Patahi, East Champaran to be set-aside? Whether the petitioner is entitled for any other relief / reliefs?

As held Supra, the result of election of post of Sarpanch of Gram Panchyat-Barashankar held of 26/10/2021 has been materially



affected by irregularity in Preparation of Election result Sheet. As the total number of votes cast at booth no.79 has been replaced with total no. vote cast 91. The above irregularity can be proved by documentary Evidence filed on behalf of petitioner and state of bihar i.e Opp 3rd set.State of Bihar had admitted that irregularity had been committed due to misunderstanding between Booth No. and Table No.

Consequently, the above issues is also decided affirmative.

So far as other issues are concerned, there is no denying the fact that irregularities were committed during the preparation of final result sheet in form of Form-20 (Part-2) and Form-21 which had impinged upon final result. As a result, a candidate with third highest number of valid votes declared as winner. As such petitioner is entitled for the relief as prayed for.

FINAL PLEADING



To succeed in this case petitioner was required to prove that there were some irregularities committed during preparation of final result there sheet which effected the result of election held for the post of Sarpanch of village panchayat, Barashankar. Petitioner has proved her case to the satisfaction of the court. Hence, it is hereby held and.

ORDERED

That the election petition is hereby allowed on contest against opposite parties and without any cost. The Final result for the post of Sarpanch of village panchayat, Barashankar, Patahi, East Champaran is hereby set aside. The certificate in favour of the O.P. no.1 as returned candidate Sushma Devi is hereby set aside. The District Election Officer-cum-District Magistrate, Motihari, East Champaran is directed to prepare fresh election result sheet under his supervision after removing the irregularities



and thereafter issue a fresh certificate in favour of returned candidate in accordance with law. The election petition is hereby disposed off. All the petitions pending in this election petition are disposed off as not pressed. Let the copy of this order be sent to the District Election Officer-cum-District Magistrate, Motihari, East Champaran for information and immediate compliance.

5. The order dated 04.03.2019 shows that the learned Civil Judge directed the District Magistrate, East Champaran, Motihari to prepare fresh election results under his supervision and after removing the irregularities, issue fresh certificate in favour of the returned candidate in accordance with law.

6. After removing the irregularities committed earlier, since **Ranjana Singh** on the basis of 104 votes polls in **Booth no. 79** went up the ladder, the District Magistrate, East Champaran, Motihari declared her the returned candidate which has been challenged by the writ petitioner herein.

7. It is the contention of the learned counsel for the petitioner that if the anomaly was found in the number of votes



polled in **Booth no. 91** vis a vis **Booth no.79** inasmuch as the votes polled in **Booth no. 91** were also counted in **Booth no. 79**, there should have been recounting of the votes which was not done.

8. This Court would like to put the chart as has come in this order:-

Sr. No.	Name	Booth No. and No. of valid votes secured by candidates															
		79	80	81	82	83	84	85	86	87	88	89	89 ka	90	91	92	Total
1	Gulshan Ara	6	247	43	65	49	4	1	7	0	4	14	16	3	6	34	499
2	Divya Kumari	5	8	7	14	10	21	5	8	2	6	11	6	10	5	22	140
3	Ranjana Singh	17	77	61	66	45	44	37	32	68	70	93	57	63	17	107	854
4	Vimla Devi	10	54	46	49	56	84	84	105	92	103	47	19	30	10	58	847
5	Sunaina Devi	92	9	10	43	16	15	4	12	16	6	84	59	155	92	47	660
6	Sushma devi	12	23	56	91	126	138	108	96	29	71	18	16	43	12	28	867

9. A perusal of the chart would show that the votes polled in **Booth no. 91** was also incorporated in **Booth no.79** inasmuch as all the figures of all the candidates matched. The actual story is/was quite different inasmuch as Form 20 (Part-I) showed the votes were actually polled by the candidates in **Booth no. 79** as follows:-

Sl. No.	Name of Candidates	No. of valid votes secured by candidates
1	Gulshan Ara	150
2	Divya Kumari	20
3	Ranjana Singh	101
4	Vimla Devi	36
5	Sunaina Devi	04
6	Sushma Devi	14

10. After deciding the issues regarding whether the election petition so filed is/are maintainable, the same after recording in affirmative, the learned Civil Judge (Jr. Division)



Motihari came to the conclusion that the election of the post of Surpanch of Gram Panchayat Bara Shankar held on 26.10.2021 has been materially affected by the irregularity in the election result. The learned Judge held that if the fake votes of **Booth no. 79** is replaced with actual votes polled as per the chart above, Ranjana Singh was clear winner. Thus, minutely deciphering the entire case, learned Judge passed the order allowing the claim of Ranjana Singh.

11. Aggrieved, the present petition. The argument of learned counsel for the petitioner is based not in her removal but the subsequent declaration of respondent no.4 **Ranjana Singh** as the returned candidate.

12. This Court repeatedly inquired from learned counsel for the petitioner as to whether the actual votes polled in **Booth no. 79** which was replaced with the votes polled in **Booth no. 91** and the illegality committed actually benefited the petitioner or not, there was no answer. His only contention is that once the Court decided for her removal, the respondent no.4 should not have been declared returned candidate.

13. In the opinion of the Court, the District Magistrate, East Champaran, Motihari simply ensured that the votes polled and incorporated in Form 20 are/were counted and



once it was done specially in **Booth no. 79**, Ranjana Singh came out on the top. She was as such rightly declared returned candidate.

14. The candidates contested the election, the voter made sure that those whom they expect to work, win the election. However, the authorities sitting there ensured that the voters choice is thrown to the dust bin and further ensured that their blue eyed person and respondent no.4 who should have been declared returned candidate on the basis of the votes polled was left to run in the corridors of the Civil Court of East Champaran, Motihari. Accountability has to be fixed in this matter and those responsible need to be proceeded against.

15. The District Magistrate, East Champaran, Motihari shall conduct an inquiry, fix responsibility and whosoever found to have committed the irregularities /illegalities to benefit the petitioner, appropriate action be initiated against them in accordance with law. The steps be taken within four weeks.

16. So far as the writ petition is concerned, it is misconceived and is dismissed with a cost of Rs. 10,000/- imposed upon the petitioner which shall be deposited in the District Legal Services Authorities, East Champaran, Motihari



(to be used exclusively for the purchase of journals for its library) within a period of four weeks from today and receipt to be deposited in the Court concerned, failing which, appropriate steps be taken in accordance with law against the petitioner for the realization of amount.

17. Before parting, this Court would like to put on record its word of appreciation for the learned Civil Judge, Jr. Division, East Champaran, Motihari, Ms. Chandani Gupta for narrating the facts in a beautiful manner and taking the matter to its logical conclusion by passing of the order dated 04.03.2024 in Election Petition no. 13 of 2021 (**Ranjana Singh vs. Sushma Devi & Ors.**).

18. Let a copy of this order be communicated to the learned District Judge, East Champaran, Motihari so that the same can be handed over to the concerned Civil Judge, Jr. Division, East Champaran, Motihari.

(Rajiv Roy, J)

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