

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6622 of 2024

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Usha Devi @ Uma Devi Wife of Santosh Kumar R/o Ward No.06,
Dharamraichak, Police Station- Lakhisarai, District- Lakhisarai

... .. Petitioner/s

Versus

1. The State Election Commissioner Bihar, Patna through its Special Works Officer, having its office at Sone Bhawan, Birchand Patel Path, Patna.
2. The State Election Commissioner Bihar, Patna
3. The District Election Officer (Municipality)-cum- District Magistrate, Lakhisarai, District- Lakhisarai
4. The Sub Divisional Officer-cum-Returning Officer (Municipal Council), Lakhisarai
5. The Deputy Election Officer (Municipality), Lakhisarai, District- Lakhisarai
6. The District Education Officer Lakhisarai
7. The Block Education Officer Lakhisarai block, District- Lakhisarai
8. Gagan Paswan son of Dilip Paswan, resident of village- Arma, Post Office- Arma (Kajra), District- Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Arun Kumar, Advocate
For the Respondent/s	:	Mr.Amit Bhushan, AC to GP-17
For SEC	:	Mr. Girish Pandey, Advocate
For Pvt. Respondents	:	Mr. Shyam Kishore, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 09-09-2024

Heard the parties.

2. The petitioner has prayed for the following
reliefs:

*(i) for issuance of writ in the nature of
certiorari setting aside the impugned
order bearing Memo No. 1151 dated
08.3.2024 passed by Respondent State*



Election Commissioner, Bihar, Patna as contained in Annexure-P/6) and the same is communicated from the level of Respondent No.1 whereby and where under the petitioner who is elected member of Ward Councillor of Ward No. 7 of Nagar Parishad, Lakhisarai has been removed in pursuant to Section 18(1)(M) read with Section 18(2) of Bihar Municipal Act 2007 having been declared disqualified on the ground that petitioner has more than two children after cut off date 04.04.2008 in summary proceeding without leading any or evidence without any unimpeachable clinching evidence which is not proper in the eye of law as also contrary to Full Bench Judgment passed by this Hon'ble Court reported in 2019(4) PLJR Page 673 (Rajni Kumari Versus The State



Election Commissioner and others);

(ii) for further direction to restore the petitioner on the post of Ward Councillor, Ward no. 07 of Nagar Parishad, Lakhisarai.

(ii) any other order/orders for granting any other relief/reliefs for which the petitioner is found entitled to in the facts and circumstances of the case.

3. On 15.07.2024, considering the submission of the petitioner, this Court directed the Superintendent, Patna Medical College and Hospital to constitute a Medical Board for the examination of the children namely Anukul Kumar and Nandani Kumari so that a conclusion can be drawn whether the birth taken place prior to 04.04.2008 or thereafter. Pursuant thereto, on the date so fixed (29.07.2024, 11:00 A.M.), under the Chairmanship of the Superintendent, Patna Medical College and Hospital, Patna, four different members who are the Head of the Department in PMCH were present which included the HOD, Radiologist as also HOD Gynecologist. However, the petitioner absented herself alongwith the two children inasmuch as they



were not produced for medical examination.

4. This takes the Court to the conclusion that the decision communicated vide memo no. 1151 dated 08.03.2024 (wrongly typed as 08.30.2024) in the order dated 15.07.2024, need no interference.

5. The writ petition stands dismissed with a cost of Rs.5000/- to be paid to Superintendent, Patna Medical College and Hospital in next four weeks. Failure to do so, appropriate steps be taken for the realization of the amount in accordance with law.

(Rajiv Roy, J)

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