IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18663 of 2024

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Umesh Kumar son of Sitaram Singh, Resident of village and P.O. Pirapur Mathura, P.S. Goraul, District Vaishali at Hajipur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Cooperative, Government of Bihar, Patna.
2. The Registrar, Cooperative Societies, Bihar, Patna.
3. The Joint Registrar (Marketing), Cooperative Societies, Bihar, Patna.
4. The District Magistrate -cum-District Election Officer (Cooperative), Vaishali at Hajipur, District - Vaishali at Hajipur.
5. The Divisional Joint Registrar, Cooperative Societies, Tirhut Division, Muzaffarpur.
6. The Assistant Registrar, Cooperative Societies, Hajipur Circle, District - Vaishali at Hajipur.
7. The District Cooperative Officer, Vaishali at Hajipur, District - Vaishali at Hajipur.
8. The Block Development Officer-cum-Returning Officer, Cooperative Election, Goraul Block, District - Vaishali at Hajipur.
9. The Block Cooperative Officer, Goraul, District - Vaishali at Hajipur.
10. Pirapur Mathura Primary Agriculture Credit Cooperative Society Ltd., P.O. Pirapur Mathura , P.S. and Block - Goraul , District Administrator. Vaishali at Hajipur through the Administrator.
11. The Administrator, Pirapur Mathura Primary Agriculture Credit Cooperative Society Ltd., P.O. Pirapur Mathura, P.S. and Block Goraul, District - Vaishali at Hajipur
12. The State Election Authority, Bihar, Patna through the Chief Election Officer.
13. The Secretary, The State Election Authority, Bihar, Patna.
14. Nawal Rai, son of Late Malik Rai, Resident of village and P.O. Babhan Toli, P.S. Goraul, District Vaishali at Hajipur.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate

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		Mr. Awnish Kumar, Advocate
For the Respondent/s	:	Mr. Government Pleader-27
		Mr. Mukesh Kumar Thakur, Advocate
For Respondent No.14	:	Mr. Raja Ram Rai, Advocate
		Dr. Mithlesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT

Date : 14-07-2025

Heard learned counsel, Mr. S.B.K. Mangalam for the petitioner and Mr. Raja Ram Rai for private respondent no.14 and learned counsel for the State.

2. The petitioner in the present writ application has been prayed for the grant of following reliefs:

> *"(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 29.10.2024/20.11.2024 passed by the Respondent no.2 and contained in his memo no.9159 dated 22.11.2024 issued under the signature of the Respondent no.3, whereby and where under the Respondent no.2 has been pleased to direct for counting of votes of the election dated 13.12.2019 held for constitution of Managing Committee of the Respondent Society but <u>without supplying any copy of report of the Respondent no.5 which is the only material consideration by the Respondent no.2 for arriving at impugned conclusion</u>.*
>
> *(II) For issuance of an appropriate writ in the nature of MANDAMUS,commanding and directing the Respondent no.5 to produce on record his report submitted to the Respondent no.2 vide his letter no.1695 dated 17.08.2024 and on*

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production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI on the ground that the aforesaid report was submitted by the Respondent no.5 without providing any opportunity of hearing on the basis of material available to him by the Respondent no.14, the impugned report is not a valid enquiry report and is, therefore, fit to be set side.

(III) For a declaration that if on consideration of all materials available with Respondent society regarding grant of membership to 392 applicants if the Administrator of Society District , Cooperative Officer and the Returning Officer -cum-Block Development Officer, Goraul had published the voter list of 1547 voters of the Respondent Society, further enquiry by the Respondent no.5 and his vague report contrary to the final voter list published on 16.02.2023 could not have been relied upon by the Respondent no.2 for the purposes of arriving at his impugned conclusion and directing for counting of votes polled on 13.12.2019 and declaration of result accordingly.

(IV) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for holding a fresh election for constitution of Managing Committee of the Respondent Society on the basis of final voter list published under the joint signature of Administrator of Society, the District Cooperative Officer and the Block

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Development Officer-cum- Returning Officer Goraul and declare the result accordingly.

(V) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case."

3. This case has had a chequered past.

4. This writ petitioner had earlier come to this Court vide CWJC No.24786 of 2019. In the said writ application the petitioner had prayed for the grant of following reliefs:

"(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the proceedings of the Managing Committee of Pirapur Mathura Primary Agriculture Credit Cooperative Societies (hereinafter referred to as Pirapur Mathura PACCS) dated 29.01.2019 and the resolution passed thereat by which the Managing Committee of the Society in question was pleased to reject 392 on-line application, the hard copy whereof was made available to the society by the Respondent no. 4 vide his letter no. 555 dated 21.01.2019 on the ground that the decision for rejection of the on-line applications for membership is vague and not specific and, therefore, cannot be sustained in the eye of law. (II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent no. 6 to include the name of the applicants as a member of the society in question whose applications for membership

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> *were rejected by the Respondent no. 8 on 29.01.2019 but the copy of the rejection order was never served upon the applicants within 15 days of receipt of their application through the Respondent no. 4 in view of the provision contained under Rule-7(1) (e) of the Bihar Cooperative Societies Rules, 1959, the applicants became the members of the society in question. (III) For a declaration that since under the deeming clause of Rule-7 (1) (d) and (e) of the Bihar Cooperative Societies Rules, 1959, the applicants became the member of the society and their membership fee has already been deposited in the account of society by the the State Government, they deserve to the enlisted in the voter list of the society in question prepared for holding 2019 election for the constitution of the Managing Committee of the Society in question. (IV) For issuance of any other appropriate writ/writs, order/orders, direction /directions for which the writ petitioner would be found entitled under the facts and circumstances of the case."*

5. In support of the above reliefs claimed by the petitioner in CWJC No.24786 of 2019, the petitioner on 12.12.2019 had submitted before this Court that 392 members had applied online for Membership of Pirapur Mathura Primary Agriculture Credit Cooperative Society Limited (for brevity the 'Society') within time as per the schedule announced by the authority. Under the deeming statutory provision, when within 15 days, the rejection was not notified to them, they had become

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members of the Society and their names was also printed in the voter list published on 30.06.2019. It was further submitted that thereafter, a co-ordinate Bench of this Court in CWJC No. 14396 of 2019 by order dated 27.08.2019, had directed for issuance of a fresh schedule and for the Authorities to verify that all on-line applications for membership received, hard copy of the same be sent by the competent authority to the concerned Society for a decision in accordance with law. It was thus submitted by the petitioner in the said writ application that the case of the petitioner was not affected by such direction for the reason that pursuant to the forwarding of the list of on-line applications, the Society had not communicated rejection to the applicants within 15 days, as required under the statute and, thus they would be deemed to be co-members of the Society. It was next submitted that in terms of the order of the High Court in CWJC No. 14396 of 2019, when a revised schedule was published in the provisional voter list of the Society, the name of all the 392 on-line applicants, who already had become co-members, was not included leading to the party affected to file objection before the Returning Officer-cum-Block Development Officer of the concerned Block. It was further submitted by the petitioner in the said writ application that no action was taken, forcing the petitioner and others to move before

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the Authority who in turn had directed the Returning Officer to consider all issues raised by the petitioner and to do the needful, but when nothing happened, again an application was made to the Authority on 16.11.2019 and thereafter again on 20.11.2019 the petitioner informed the Authority with regard to non consideration of their grievance by the Returning Officer. It was further submitted by the petitioner in the said writ application that again the Authority wrote to the District Magistrate, Vaishali on 21.11.2019, to consider the grievance of the petitioner and to do the needful, in accordance with law. On 12.12.2019 when CWJC No.24786 of 2019 was being heard, it was informed by the petitioner to this Court that election was going to be held on the next day i.e. on 13.12.2019 and still the genuine grievance of the petitioner and 391 other persons had been ignored in blatant violation of the legal provisions, which as per the petitioner led to the whole process being vitiated due to *mala fide* committed by the authorities. This Court while passing an interim order on 12.12.2019 (Annexure-P-9) issued notice to some of the respondents, but in the meantime allowed the election to proceed on 13.12.2019, but no further process, including counting and declaration of result was ordered to take place and the ballot was directed to be kept under sealed cover until further orders of the

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Court. In the interim order dated 12.12.2019 this Court had also indicated that both the District Magistrate, Vaishali as well as the State Election Authority, Bihar, Patna would look into the matter and take appropriate action. Both of them were required to categorically state as to what steps they had taken to ensure that the bonafide grievance of any person, including the petitioner, was not frustrated because of inaction on part of the concerned authorities. The learned counsels appearing for the State as well as the State Election Authority were to communicate the interim order dated 12.12.2019 to the authorities concerned.

6. Subsequently, the aforesaid writ application bearing CWJC No.24786 of 2019 was again taken up for hearing on 09.01.2023 and the writ application was disposed of in the following terms (relevant operative portion is quoted herein below for needful).

> *"7. From the entire pleadings on record and the assistance received from the learned counsels and the officers, the Court has no hesitation to record that the preparation of the voter list stands vitiated, either due to non inclusion of 392 persons even after expiry of the time limit for considering their request for being added as members or even otherwise, since the Managing Committee which is the empowered body to consider such applications to reject or accept their claim since neither the number is given nor the specific details of the persons*

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whose application was either rejected or allowed has been brought before the Court. The Secretary, Department of Co-operation, Government of Bihar fairly submits that the list itself stands vitiated and thus, the election process cannot be said to be in accordance with law.

8. Having given our anxious thoughts, the Court would like to indicate, what is going through its mind. On the one hand, elections have been held minus the 392 persons who had applied well before the preparation of the voter list. On the other hand, the body which was competent to consider i.e., the Managing Committee itself in the resolution bought on record has accepted the application of some of the persons and rejected some, which clearly means that out of 392 persons at least some were allowed. Once they were allowed, they had to be made members and their names ought to have figured in the voting list and they had a right to take part in the election. Admittedly, all 392 persons have been left out. This 392 figure compared to 1116, which is the numbers of persons included in the voter list, is a large number to be ignored without the due process of law which clearly, at the cost of repetition, the Court has held has not been done.

9. Accordingly, taking an overall view in the matter, the Court holds that the election cannot be sustained and the exercise has to be redone right from the inception i.e., preparation of the voter list itself. However, the said exercise will be limited to the 1116 members already there in the voter list and the 392 fresh applicants.

10. The State Election Authority is directed to issue fresh programme starting

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from the stage of preparation of voter list. The Court would indicate that the consideration would not extend beyond the 1116 persons already being on the voter list and the concerned 392 applicants and the exercise shall be taken to its logical conclusion, strictly in accordance with law including the statutory aspect of the Act and the Rules as also the bye-laws of the PACS. The same be initiated within four weeks from today. Further, any objections which may be filed shall be dealt with and disposed of in time strictly in accordance with law after proper consideration of both the factual and legal aspects."

7. The aforesaid order dated 09.01.2023 was challenged by respondent no.14 before Hon'ble Supreme Court vide Civil Appeal No.5312 of 2024. The Hon'ble Supreme Court vide order dated 22.04.2024 (Annexure-P/11) modified the order dated 09.01.2023 passed by this Court by holding and observing as follows:

"4. We have heard learned senior counsel for the appellant as well as learned State counsel. The first respondent, who was the writ petitioner before the High Court, has not come forward.

5. In our considered opinion, the issues relating to establishment, management and affairs of the Society can be effectively determined by the Statutory Authority, namely, the Registrar, Cooperative Society, who can, if need be, hold a Fact-Finding Enquiry and/or summon the original records to determine whether the 392 applicants had applied for

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membership or not and if so, whether they were eligible to be included in the voter list. Without undertaking such an exercise, it will be difficult to hold that the election of Managing Committee of the Society held by excluding those voters, is vitiated in law. Consequently, we do not deem it necessary to delve into the merits of the case and rather remit the same to the Registrar, Cooperative Society, Bihar, who may in his discretion decide the entire controversy himself or refer it to an Officer, not below the rank of Deputy Registrar, to hold a Fact-Finding Enquiry; determine the claim, if any, of 392 applicants and consequently further adjudicate the legality of the elections of the Managing Committee already held. It goes without saying that if the Competent Authority comes to the conclusion that the 392 applicants never applied for membership and/or were ineligible to be included in the voter list, the elections already held would warrant no interference. However, if such applicants have been deprived of their right to vote in the elections of the Managing Committee, necessary consequences must follow.

6. It is clarified that we have not expressed any opinion on the merits of the case. The parties are, accordingly, directed to appear before the Registrar, Cooperative Society, Bihar, on 17.05.2024.

7. The impugned judgment of the High Court dated 09.01.2023 is, thus, modified and the instant appeal is disposed of in the above terms.

8. All pending applications, if any, also stand disposed of."

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8. It is pertinent to note that before the Hon'ble Supreme Court the petitioner did not turn up to contest the case.

9. In due compliance of the order dated 22.04.2024 (Annexure-P/11) passed by the Hon'ble Supreme Court, the respondent no.2 entrusted the responsibility to respondent no.5 i.e. the Divisional Joint Registrar, Co-operative Societies, Tirhut Division, Muzaffarpur to conduct a fact finding inquiry. The fact finding inquiry was conducted by the Divisional Joint Registrar, Co-operative Societies, Tirhut Division, Muzaffarpur (respondent no.5) in which both the petitioner as well as respondent no.14 participated. After conducting the fact finding inquiry, the respondent no.5 submitted the fact finding report vide Letter No.1695 dated 17.08.2024 to the respondent no.2 i.e. the Registrar, Co-operative Societies, Bihar, Patna. Some of the important findings given in the fact finding report, which are not in dispute between the parties are as follows:

(a) Out of 392 persons, online applications of 13 persons for membership had already been accepted by the Managing Committee prior to holding election on 13.12.2019, thus leaving only 379 persons whose online application for membership had not been accepted.

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(b) 13 persons whose online membership application had been accepted had also participated in the election for constitution of Managing Committee held on 13.12.2019. They had voted in the election held on 13.12.2019.

(c) The petitioner had himself contested the election on 13.12.2019, which necessarily means that his membership also had been accepted prior to 13.12.2019.

10. In light of the aforesaid findings given by the respondent no.5 in his fact finding report dated 17.08.2024, serious questions arise as to the locus of the petitioner to maintain the present writ application for seeking the kind of reliefs which the petitioner has prayed in this writ petition.

11. The undisputed position is that the petitioner was himself one of the contesting candidate and he had contested the election on 13.12.2019, which he could only have done by being a member of the society. Manifestly therefore, the 13 persons whose applications for membership had been accepted, the petitioner was one of them and that is why he was allowed to contest the election held on 13.12.2019. Regard being had to the fact that the petitioner was one amongst the 13 persons whose membership had already been accepted prior to 13.12.2019 and on 13.12.2019 the petitioner had contested the election, the petitioner in the present writ

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petition cannot be allowed to question the election held on 13.12.2019 in which he had himself participated. The writ application is, therefore, not maintainable on this account.

12. The writ application is also not maintainable for the reason that in light of the aforesaid discussion, it is clear that the petitioner after being made a member of the society and being allowed to contest the election on 13.12.2019 cannot be said to be having any subsisting grievance. It is only the 379 persons who were not considered eligible to be made members of the society and could not participate in the election as their names did not figure in the voter list, who can qualify as 'aggrieved persons' and therefore, it is they or any one of them who could have filed the present writ application. The petitioner cannot be allowed to espouse the cause of 379 aggrieved persons, particularly when this writ application has not been filed in a representative capacity and there is nothing on record to even suggest that these 379 persons had or have authorized the petitioner to agitate on their behalf. The petitioner thus does not have the locus to file the present writ application for seeking the kind of reliefs which has been prayed for in the present writ petition and therefore the present writ application is also not maintainable on this count.

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13. During the course of hearing, a shocking revelation has come to light. The learned counsel appearing for the petitioner, Mr. S.B.K. Mangalam while advancing argument kept on harping and reiterating that the petitioner was never given a copy of the fact finding report dated 17.08.2024 and therefore the impugned order dated 29.10.2024/ 20.11.2024 passed by the respondent no.2 as contained in his Memo No.9159 is unsustainable in law because the said impugned order is based on the fact finding report, thus being violative of the principles of natural justice. In support of the relief contained in paragraph-1 (I), the petitioner in paragraphs 34 and 41 of the writ application has also made affidavited statement that a copy of the fact finding report was never given to the petitioner. It is pertinent to reproduce paragraph-1 (I), 34 and 41 of the writ application which are as follows:

> *"1(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 29.10.2024/20.11.2024 passed by the Respondent no.2 and contained in his memo no.9159 dated 22.11.2024 issued under the signature of the Respondent no.3, whereby and where under the Respondent no.2 has been pleased to direct for counting of votes of the election dated 13.12.2019 held for constitution of Managing Committee of the Respondent Society <u>but without supplying any copy of report of the Respondent no.5 which is the only material consideration by the Respondent no.2 for arriving at impugned conclusion.</u>*

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> *34. That, without service of a copy of the report submitted by the Respondent no.5 vide his letter no.1695 dated 17.08.2024, the Respondent no.2 had accepted the report and in the same language had directed for counting of votes poled on 13.12.2019 and order to this effect has been passed by the Respondent no.2 vide memo no.9159 dated 22.11.2024 communicated under the signature of Respondent no.3.*
>
> > *A true photo stat copy of the memo no.9159 dated 22.11.2024 is annexed herewith and marked as Annexure- "P-15" for identification forming part of this writ application.*
>
> *41. That, it is relevant to submit that it is only after submission of written notes of argument that the enquiry was entrusted to the Respondent no.5 who submitted his report on 17.08.2024 and based upon that the impugned order has been passed by the Respondent no.2 but without supplying a copy of report submitted by the Respondent No.5 and providing any opportunity of hearing after submission of report by the Respondent No.5."*
>
> *[Emphasis Supplied]*

14. The entire case has been built by the petitioner contending that the impugned order has been passed without service a copy of the fact finding report, thereby building a case of infraction of principles of natural justice.

15. During the course of hearing, the learned counsels appearing for respondent no.14 and State Election Commission

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pointed out that the entire case which has been built up in the writ application by the petitioner is based on false statement. They categorically submitted that the petitioner had received a copy of the fact finding report dated 17.08.2024 on 10.09.2024. The learned counsel appearing for respondent no.14 attracted the attention of this Court to paragraph no.14 of the counter affidavit filed by him in which it has been categorically averred and stated as follows:

> *"14. That the writ petitioner and the deponent received the complete records, along with the report of Respondent No.5, on 10.09.2024. The record comprises 382 pages.*
>
> *A photocopy of the report dated 10.09.2024 is annexed herewith and marked as Annexure-R-14/5 to this counter affidavit."*

16. In support of the above statement made by respondent no.14, in paragraph-14 of its counter affidavit the respondent no.14 has also enclosed a copy of the fact finding report dated 17.08.2024 (at running page-459 of writ petition) and on the said report clearly there is signature of the petitioner as proof of having received a copy of the fact finding report on 10.09.2024.

17. The aforesaid revelation made by learned counsel for the respondent no.14 was undoubtedly shocking to say the least

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because it was not expected that the petitioner would indulge in such a blatant lie, based on which the entire case has been built by the petitioner in the writ application.

18. When the learned counsel appearing for the petitioner Mr. S.B.K. Mangalam was confronted with the above situation, he candidly admitted that his client i.e. the petitioner had indulged in making false statement and the Court should take appropriate action against the petitioner.

19. This Court has already expressed its view that the present writ application is not maintainable in law and that the petitioner also does not have the locus to file the present writ application as he does not qualify in the category of 'aggrieved person'. For these reasons as well as for the reason that the petitioner has indulged in making false statement based on which the petitioner has developed his entire case, the conduct of the petitioner does not warrant this Court to grant any relief to the petitioner in exercise of extraordinary and equitable remedy under Article 226 of the Constitution of India. Relief under Article 226 involves the exercise of equitable principles. Article 226 of the Constitution of India grants the High Court the discretion of granting relief which must be guided by equitable considerations, meaning thereby that the Court must consider fairness, justice and

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the conduct of the parties involved. In the present case the conduct of the petitioner is highly deplorable for having made false statement at several places in the writ application and for building his entire case based on such false narrative. This Court therefore, refuses to exercise its discretionary jurisdiction under Article 226 and dismisses the present writ application.

20. It is also considered appropriate to observe that although it is the petitioner who has signed and sworn the affidavit who is primarily responsible for making false statement, but the lawyers who represent such kind of petitioners also have a professional and legal obligation to ensure the accuracy and truthfulness of the information they present in Court, including affidavit.

21. Under the aforesaid facts and circumstances and for the reasons given above, the present writ application is dismissed with cost of Rs.20,000/-(Twenty Thousand) to be paid by the petitioner. This cost must be deposited by the petitioner by 18.08.2025 in the account of Patna High Court Legal Services Committee. The Registry is directed to ensure that this cost is deposited by the petitioner and in case it is not deposited by the petitioner within the stipulated time, then an information must be given to this Court immediately thereafter. In such circumstance,

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this Court may consider *suo motu* initiating contempt proceeding against the petitioner for violating the orders of this Court.

(Alok Kumar Sinha, J)

Prakash Narayan

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	16.07.2025
Transmission Date	N/A

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