

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7929 of 2019

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1. Kanhaiya Prasad S/o Late Kishun Prasad, Resident of Shop No. A-2 Bazar Samiti, P.S. - Ahiyapur, District-Muzaffarpur.
 2. Kumod Kumar Chaudhary, S/o Village-Vijay Kumar Chaudhary, Resident of Shop No. A-3 Bazar Samiti, P.S. - Ahiyapur, District-Muzaffarpur.
 3. Munna Chaudhary, S/o Ashok Chaudhary Resident of Shop No. A-5 Bazar Samiti, P.S. Ahiyapur, District-Muzaffarpur.
 4. Neeraj Kumar S/o Sri Vijay Chaudhary Resident of Shop No. A-3 Bazar Samiti, P.S. - Ahiyapur, District-Muzaffarpur.
 5. Vijay Kumar Chaudhary S/o Bhagwan Chaudhary Resident of 78A Pankar Market, P.S. - Town, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The Union Of India through the Secretary, Ministry of Law, Govt. of India, New Delhi.
2. The Election Commissioner of India, New Delhi.
3. The Chief Electoral Officer, Bihar, Patna
4. The State Election Commission, Bihar, Patna
5. The State of Bihar, Through the Principal Secretary, Home Department, Govt. of Bihar, Patna
6. The Collector, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Deo Prakash Singh, Advocate
For the Respondent/s	:	Mr. Md. N.H. Khan, SC-1
		Mr. Md. Harun Quareshi, AC to SC-01
For the ECI	:	Mr. Siddhartha Prasad, Advocate
For the UOI	:	Mr. Arvind Kumar, CGC
For the SEC	:	Mr. Girish Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

13 08-01-2026 Heard Mr. Deo Prakash Singh, learned counsel for the petitioners, Mr. Siddhartha Prasad representing the Election Commission of India (for brevity 'the ECI'), Mr. Girish Pandey, learned counsel for the State Election Commission (for brevity



‘the SEC’) as also the State, Mr. Md. Harun Quareshi.

2. The present petition has been preferred for the following relief(s):

“A writ in the nature of certiorari or any other writ or order or direction be issued quashing memo no. 664 dated-3.9.2016 whereby and whereunder he refused to consider grievance of petitioner's with regard to problems being faced due to frequent requisitions of their shops for purpose of counting in elections and thereby direct the authorities to construct a permanent place where the counting of election should be performed without disturbing the business persons having their shop at Bazar samiti, Muzaffarpur in legal way.

ii. during the pendency of this writ application interim order be passed so that the authority may not disturb the petitioners.”

3. The petitioners own godown in the Ahiyapur Agriculture Produce Market Committee, Muzaffarpur and are aggrieved by the regular directions issued by the respondents whenever an election approach to vacate the premises for



smooth conduct of the elections.

4. Though the learned counsel for the petitioners submit that at the onset of every election, such exercise take place, it has been disputed by the learned counsels representing ‘the ECI as also ‘the SEC’ submitting that the same is requisitioned only for the purpose of Assembly and Parliamentary Elections.

5. Learned counsel representing ‘the ECI’ has taken this Court to **Sections 160 and 161** of the **Representation of People Act, 1951** (henceforth for short ‘**the Act**’) which read as follows:

“160. Requisitioning of premises, vehicles, etc., for election purposes.—(1) If it appears to the State Government that in connection with an election held within the State—

²²[(a) any premises are needed or are likely to be needed for the purpose of being used as polling stations, for counting, for storage of ballot boxes, voting machines (including voter verifiable paper audit trail) and poll related material after a poll has been taken, accommodation for security forces and polling personnel; or]



(b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election, the Government may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

^{22b}[Provided that such premises shall be requisitioned after the issuance of the notification by the Election Commission under section 30 for such election till the date notified under clause (e) thereof:

Provided further that] no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be



requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) In this, section—

(a) “premises” means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

161. Payment of compensation.—(1)



Whenever in pursuance of section 160 the State Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(i) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where there is any



dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the State Government to an arbitrator appointed in this behalf by the Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression “person interested” means the person who was in actual possession of the premises requisitioned under section 160 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 160 the State Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the



amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the State Government in this behalf may decide.”

6. He submits that in such an exercise/polls and for the security of the ballot boxes after the voting is/are over till the votes are counted and result declared, this place has been found to be suitable and accordingly, repeatedly requisitioned. The submission is that Section 161 of ‘the Act’ has taken care of



all the payment of compensation and in any case and if aggrieved, alongwith all the relevant supporting documents, the affected party can move before the Arbitrator for just and proper grievances so that the same is redressed.

7. So far as the requisition part is concerned, submission is that as recorded above, the same is/are required for the Parliamentary/Assembly Elections.

8. Learned counsel for the petitioners submit that they are petty businessmen, if the premises is taken over from the date, the election is announced till the election results are announced, it definitely affects their families as also those are working under them.

9. The submissions put forward by both the parties are just and proper. On the one hand, the petitioners/their family members, employees and their family members suffer due to their displacement from the business place, on the other hand, 'the ECI'/'the SEC' are equally justified in taking over a secured place for such a huge exercise for the conduct of elections.

10. However, now that the 2024 Parliamentary Election as also 2025 Assembly Elections are over and the next elections in regular process shall will held only in the year



2029/2030 the parties have lots of time. Further, the State Administration can also ponder over the matter as to whether to continue with the present premises or they have any alternate place in mind so that the business activities are not disturbed.

11. This Court has taken note of the submissions put forward by both 'the ECI' and 'the SEC' that this premises is taken only for the purpose Parliamentary Elections/Assembly Elections and not for any other purposes.

12. In that background, this Court would like the petitioners to approach the District Magistrate, Muzaffarpur alongwith all the documents and shall also be suggesting alternate place which can be requisitioned for the Lok Sabha/Vidhan Sabha elections purposes. If such petition is preferred in next six weeks, the District Magistrate, Muzaffarpur shall be looking into the matter and shall be taking a decision into the matter by passing a reasoned order by 31st of December, 2026.

13. Needless to add, the District Magistrate, Muzaffarpur can also take feedback from 'the ECI'/'the SEC' in this matter as also all the other stake holders as also getting public opinion on the issue, if required, on using of an alternate place for conducting the election.



14. The writ petition as also the Interlocutory Application, if any, stand disposed of with the aforesaid observations.

(Rajiv Roy, J)

Adnan/-

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