

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1001 of 2023

In
Civil Writ Jurisdiction Case No.14258 of 2022

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Manoj Prasad, Son of Ramekbal Prasad, Resident of village- Baghambarpur,
P.O. Patjirwa, P.S. Shree Nagar, District West Champaran at Bettiah, presently
Mukhiya of Gram Panchayat Raj, Bagahi Baghambarpur, Block- Bairiya,
District - West Champaran at Bettiah.

... .. Appellant/s

Versus

1. The State Election Commission (Panchayat) Sone Bhawan, Birchand Patel
Path, Patna through the State Election Commissioner.
2. The State Election Commissioner,
The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel
Path, Patna.
3. The Secretary,
The State Election Commission (Panchayat), Sone Bhawan Birchand Patel
Path, Patna.
4. Santosh Kumar, son of Baidyanath Sah, Resident of village- Bagahi, Ward
No.8, P.O. Patjirwa, P.S. Shree Nagar, District-West Champaran at Bettiah.
5. The State of Bihar through the Principal Secretary, General Administration
Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. S.B.K.Manglam, Advocate Mr.Awnish Kumar, Advocate Mr. Vikash Kumar Singh, Advocate
For the State	:	Mr.Saroj Kumar Sharma, AC to AAG-3
For the Commission	:	Mr. Ravi Ranjan, Advocate Mr. Girish Kumar, Advocate
For Pvt. Resp. No.4	:	Mr. Santosh Bharti, Advocate Mr. Apurva Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 22-04-2026



Heard learned counsel for the parties.

2. The present *intra court* appeal has been preferred against the judgment and order dated 09.08.2023 passed in C.W.J.C. No. 14258 of 2022, whereby the learned Single judge dismissed the writ petition.

3. The brief facts of the case are that the appellant was elected as a Mukhiya in the year 2021 on the seat which was reserved for extremely backward class candidates. Thereafter Respondent No. 4 lodged a complaint under Section 136(2) of the Bihar Panchayat Raj Act, 2006 seeking his disqualification on the ground that he does not belong to the Extremely Backward Class. The said complaint was registered as Case No. 72 of 2021, and upon notice, the appellant appeared and filed his written statement disputing the allegations and asserting that the documents relied upon by the complainant were fabricated. Upon consideration, the State Election Commission referred the issue of caste status to the Caste Scrutiny Committee vide order dated 15.07.2022. Being aggrieved by the said order of reference dated 15.07.2022, the appellant preferred the writ petition being C.W.J.C. No. 14258 of 2022 before this Court, inter alia, challenging the jurisdiction of the State Election Commission to make such reference.



4. During the pendency of the writ petition, the Caste Scrutiny Committee proceeded with the matter and, upon enquiry, returned a finding vide order dated 12.01.2023 declaring the appellant to be of *Koeri (Kushwaha)* caste. The appellant, thereafter, also challenged the said order of the Caste Scrutiny Committee in the pending writ proceedings; however, the writ petition ultimately came to be dismissed by the learned Single Judge vide judgment and order dated 09.08.2023, giving rise to the present intra-court appeal.

5. The learned Single Judge, while dismissing the writ petition, made the following observations:

75. This Court has gone through the facts of the case as also the submissions put forward by the rival parties and finds force in the averments made by the learned counsels appearing on behalf of the respondent no. 4, the State as also the Election Commission.

76. As per the documents on record, the 'Dangi' caste was incorporated as a separate caste in the year 1995 and has not been carved out from Kushwaha/Koeri as pointed out by learned Senior Counsel for the respondent no. 4 and is also reflected from the Gazette notification.

77. Further, as per the letter no. 673 dated 08.03.2011 issued by 'the GAD', the land revenue record is the foremost document for the issuance of caste certificate and only in its absence, the other documents have to be relied upon.

78. In the case of the petitioner, the admitted fact is that his ancestor, Bhagelu Mahato has been shown in the 'Khatiyani' as 'Koeri' (Khushwaha) .

79. Even the petitioner purchased the land in 2018



showing himself to be of 'Koeri' caste. Further, as per the findings of the Caste Scrutiny Committee; one Santosh Kumar, son of Nandlal Prasad of village Baghambarpur, P.O. Patjirwa, Shree Nagar, West Champaran who is a Government Teacher in Bhagambarpur Panchayat and own cousin of petitioner is having a 'Koeri' caste certificate.

80. In view of such unimpeachable evidences before the Caste Scrutiny Committee which included the report submitted by 'the CID' showing the petitioner to be a 'Koeri' (Khushwaha) caste; it rightly came to the finding communicated vide memo no 863 dated 12.01.2023 which cannot be faulted upon.

81. Learned Senior Counsel for the respondent no. 4 has rightly pointed out that the Inquiry Committee of 'the CID' which submitted its report to the Caste Scrutiny Committee (and formed basis for coming to the said conclusion vide letter no. 1812 dated 18.10.2022) also incorporated the fact that the Santosh Kumar, cousin brother of the petitioner and the Government Teacher has got a caste certificate showing himself as a 'Koeri' caste which comes under OBC category.

82. Against the said unimpeachable evidence/documents/records, the only document on which the petitioner is harping upon is a letter issued by the Joint Secretary dated 06.04.2011 which was communicated to the District Magistrate, Munger; copy whereof was sent to the Commissioner, Munger Division, Munger in response to their query dated 01.03.2011 and 04.03.2011. The same has already been rebutted/clarified by the learned Senior Counsel for the respondent no. 4 as incorporated above that it was district specific, person specific and even then direction was given to have enquiry done by the Circle Officer.

83. Having gone through the matter as also the rival submissions, the facts that are on record is/are that:

(i) in the Land Revenue Record, the ancestor of Bhagelu Mahto has been inscribed as 'Koeri' in the 'khatiyan';

(ii) the petitioner himself purchased a land in



2018 showing himself as 'Koeri' caste.

(iii) as per the gazette notification (letter no. 673 dated 08.03.2011), the revenue record of father/ancestor is one of the important criteria for verification;

(iv) further only in its absence, the ground verification is/are required;

(v) the 'Sarpanch' provided ganeology showing relationship of the petitioner with late Bhagelu Mahato;

(vi) 'Dangi' caste is different from 'Koeri' caste which came to be included earlier under Other Backward Class in 1995 and later in 2015 under Extremely Backward Class;

(vii) 'the CID' accordingly submitted its report;

(viii) the Caste Scrutiny Committee thereafter came to a definite finding that the petitioner does not belong to the 'Dangi' Caste.

(84) xx	xx	xx
xx	xx	xx
xx	xx	xx

89. This Court thus observes that the petitioner cannot be allowed to change colours like the Chameleons inasmuch as he cannot become a 'Koeri' (under OBC category) to purchase a land in 2018 and immediately thereafter turn into a 'Dangi' (under EBC category) to contest 2021 election from an Extremely Backward Class seat."

6. Learned counsel for the appellant submits that the learned Single Judge failed to appreciate that the order dated 15.07.2022 passed by the State Election Commission, whereby the matter relating to the appellant's caste status was referred to the General Administration Department, is wholly without



jurisdiction and contrary to the law laid down by the Full Bench in ***Rajani Kumari & Ors. v. State Election Commission & Ors.*** reported in **2019 4 PLJR 673**, which mandates that disputed questions of caste status are to be adjudicated by the competent fact-finding authority in accordance with law. It is further submitted that the finding of the Caste Scrutiny Committee declaring the appellant to be of *Koeri (Kushwaha)* caste is arbitrary and perverse, inasmuch as it runs contrary to the binding instructions issued by the General Administration Department, particularly letter dated 06.04.2011 and subsequent reiterations, which clearly permit issuance of *Dangi* caste certificate on the basis of local enquiry even where revenue records reflect *Koeri (Kushwaha)*. It is argued that once the appellant was granted caste certificates in 2016 and 2021 on the basis of due enquiry by the competent authority and no infirmity was found in such enquiry, there was no justification for the Committee to take a contrary view.

7. Learned counsel for the appellant further submits that the entire proceeding before the Caste Scrutiny Committee stands vitiated for violation of principles of natural justice. The Committee arbitrarily rejected the appellant's request for adjournment despite medical grounds of counsel, thereby



denying effective opportunity of hearing. Further, relevant documents produced by the appellant were discarded on untenable grounds, while reliance was placed on disputed and allegedly forged materials. It is thus submitted that there was complete non-consideration of material evidence placed on record by the appellant. On the aforesaid grounds, it is submitted that the impugned judgment of the learned Single Judge, affirming such findings, is liable to be set aside.

8. *Per contra*, learned counsel for the respondent submits that the caste status of the appellant has already been duly examined and verified by the State Level Caste Scrutiny Committee and, therefore, the determination made by such competent authority does not call for interference.

9. It is further submitted that the appellant has, at different points of time, projected himself as belonging to *Koeri (Kushwaha)* category for certain purposes, including official and transactional matters, and thereafter claimed to be *Dangi (Extremely Backward Class)* for the purpose of contesting election from a reserved seat. It is further submitted that the appellant was provided adequate opportunity during the course of proceedings and the principles of natural justice have been duly complied with. The allegations to the contrary are



unfounded and have been raised only to assail a well-reasoned order. The respondent, therefore, submits that the impugned judgment warrants no interference in intra-court appeal.

10. The limited issue which arises for consideration is as to whether the judgment and order dated 09.08.2023 passed by the learned Single Judge, in the facts and circumstances of the present case, warrants interference by this Court in exercise of its intra-court appellate jurisdiction.

11. At the outset, this Court notes that the learned Single Judge has undertaken a detailed examination of the documentary evidence and has rightly recorded that the foundational records, particularly the land revenue record (*khatiyān*), reflect the caste of the appellant's ancestor as *Koeri* (*Kushwaha*). Such revenue records, being contemporaneous and maintained in the ordinary course of official business, carry a presumption of correctness and constitute primary evidence for determination of caste status. This Court, upon independent scrutiny, finds no reason to discard the evidentiary value of such records.

12. Further, it is an admitted position that the appellant himself, in the year 2018, while entering into a land transaction, declared his caste as *Koeri*. This conduct of the



appellant, reflected in an official and voluntary declaration, assumes considerable significance. The appellant has been unable to provide a justification as to how he declared his caste as *Koeri* in the said document, and later declared his caste as *Dangi* for purposes of election.

13. The learned Single Judge has rightly taken note of this aspect and has drawn an adverse inference with regard to the consistency and credibility of the appellant's claim. A person cannot be allowed to oscillate between two caste identities claiming to be *Koeri* for one purpose and *Dangi* for another depending upon the benefit sought to be derived. Such conduct not only undermines the sanctity of the system of reservation but also strikes at the root of fairness in public administration.

14. The appellant has sought to rely upon the instructions issued by the General Administration Department in the year 2011 and subsequent reiterations, which provide that even if revenue records reflect *Koeri (Kushwaha)*, a caste certificate of *Dangi* may be issued on the basis of local enquiry. However, as rightly appreciated by the learned Single Judge, and as independently found by this Court, such instructions cannot be read in a manner so as to permit a person to adopt shifting stands at different points of time. The purpose of the



said instructions is to address genuine cases where identification of caste requires verification beyond documentary entries, and not to override consistent documentary evidence or to legitimize contradictory declarations made by an individual in official records.

15. This Court further finds that the Caste Scrutiny Committee has taken into account all relevant materials, including the revenue records, the appellant's own declarations, and the enquiry report submitted by the competent authority, and has thereafter arrived at a categorical finding that the appellant belongs to *Koeri (Kushwaha)* caste. Therefore, the plea taken by the appellant that the State Election Commission cannot adjudicate the issue relating to caste in view of the observations made by Full Bench decision rendered in case of ***Rajini Kumari*** (supra) is misconceived, because here the State Election Commission has not determined the caste of the appellant, rather it has forwarded the matter before the competent Caste Scrutiny Committee.

16. In ***R. Vishwanatha Pillai v. State of Kerala*** reported in ***(2004) 2 SCC 105***, it has been held that a person who secures benefits on the basis of a false or doubtful caste claim cannot be permitted to retain such benefits. The relevant



part of the said order reads as follows:

15. This apart, the appellant obtained the appointment in the service on the basis that he belonged to a Scheduled Caste community. When it was found by the Scrutiny Committee that he did not belong to the Scheduled Caste community, then the very basis of his appointment was taken away. His appointment was no appointment in the eye of the law. He cannot claim a right to the post as he had usurped the post meant for a reserved candidate by playing a fraud and producing a false caste certificate. Unless the appellant can lay a claim to the post on the basis of his appointment he cannot claim the constitutional guarantee given under Article 311 of the Constitution. As he had obtained the appointment on the basis of a false caste certificate he cannot be considered to be a person who holds a post within the meaning of Article 311 of the Constitution of India. Finding recorded by the Scrutiny Committee that the appellant got the appointment on the basis of a false caste certificate has become final. The position, therefore, is that the appellant has usurped the post which should have gone to a member of the Scheduled Castes. In view of the finding recorded by the Scrutiny Committee and upheld up to this Court, he has disqualified himself to hold the post. The appointment was void from its inception. It cannot be said that the said void appointment would enable the appellant to claim that he was holding a civil post within the meaning of Article 311 of the Constitution of India. As the appellant had obtained the appointment by playing a fraud, he cannot be allowed to take advantage of his own fraud in entering the service and claim that he was holder of the post entitled to be dealt with in terms of Article 311 of the Constitution of India or the Rules framed thereunder. Where an appointment in a service has been acquired by practising fraud or deceit, such an appointment is no appointment in law, in service and in such a situation Article 311 of the Constitution is not attracted at all.

16. In Ishwar Dayal Sah v. State of Bihar [1987 Lab IC 390 : 1987 BBCJ 48 (Pat)] the Division Bench of the Patna High Court examined the point as to



whether a person who obtained the appointment on the basis of a false caste certificate was entitled to the protection of Article 311 of the Constitution. In the said case the employee had obtained appointment by producing a caste certificate that he belonged to a Scheduled Caste community which later on was found to be false. His appointment was cancelled. It was contended by the employee that the cancellation of his appointment amounted to removal from service within the meaning of Article 311 of the Constitution and was therefore void. It was contended that he could not be terminated from service without holding departmental inquiry as provided under the Rules. Dealing with the above contention, the High Court held that if the very appointment to the civil post is vitiated by fraud, forgery or crime or illegality, it would necessarily follow that no constitutional rights under Article 311 of the Constitution can possibly flow. It was held: (Lab IC pp. 394-95, para 12)

If the very appointment to civil post is vitiated by fraud, forgery or crime or illegality, it would necessarily follow that no constitutional rights under Article 311 can possibly flow from such a tainted force. In such a situation, the question is whether the person concerned is at all a civil servant of the Union or the State and if he is not validly so, then the issue remains outside the purview of Article 311. If the very entry or the crossing of the threshold into the arena of the civil service of the State or the Union is put in issue and the door is barred against him, the cloak of protection under Article 311 is not attracted.”

17. Also, the principle that a litigant cannot approbate and reprobate by taking inconsistent stands, has also been reiterated in ***Union of India v. N. Murugesan*** reported in ***(2022) 2 SCC 25***, the relevant part of the said order reads as follows:



“Approbate and reprobate

26. These phrases are borrowed from the Scots law. They would only mean that no party can be allowed to accept and reject the same thing, and thus one cannot blow hot and cold. The principle behind the doctrine of election is inbuilt in the concept of approbate and reprobate. Once again, it is a principle of equity coming under the contours of common law. Therefore, he who knows that if he objects to an instrument, he will not get the benefit he wants cannot be allowed to do so while enjoying the fruits. One cannot take advantage of one part while rejecting the rest. A person cannot be allowed to have the benefit of an instrument while questioning the same. Such a party either has to affirm or disaffirm the transaction. This principle has to be applied with more vigour as a common law principle, if such a party actually enjoys the one part fully and on near completion of the said enjoyment, thereafter questions the other part. An element of fair play is inbuilt in this principle. It is also a species of estoppel dealing with the conduct of a party. We have already dealt with the provisions of the Contract Act concerning the conduct of a party, and his presumption of knowledge while confirming an offer through his acceptance unconditionally.”

18. Applying the aforesaid settled principles to the facts of the present case, this Court is of the considered view that the appellant, having taken inconsistent stand regarding his caste status, cannot be permitted to derive benefit therefrom. The claim advanced by the appellant is therefore, wholly unsustainable in the eyes of law.

19. In view of the foregoing discussion, this Court is of the view that the findings recorded by the learned Single Judge call for no interference.



20. The present intra court appeal is, accordingly,
dismissed.

21. Pending application(s), if any, shall also stand
disposed of.

(Sudhir Singh, J)

Shailendra Singh, J: I agree.

Sujit/-

(Shailendra Singh, J)

AFR/NAFR	AFR
CAV DATE	08.04.2026
Uploading Date	22.04.2026
Transmission Date	

