
(2008) 02 PAT CK 0109
In the Patna High Court
Case No : CWJC No. 14917 of 2007

Aradhana Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-02-2008

Acts Referred:

Citation : (2008) 2 PLJR 345

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Advocate : Amrit Abhijit and Manager Sah, for the Appellant; Sanjeev Nikesh, Harendra Prasad Singh and Shashi Chandra Pandey, for the Respondent

Final Decision : Allowed

Judgement

Ajay Kr. Tripathi, J.—Heard counsel for the parties. Petitioner is aggrieved by an order dated 5.10.2007 passed by the Court of Munsif, Gopalganj in Election Case No. 24/06. According to the petitioner an amendment has been allowed in favour of the private respondent virtually after the close of all arguments in the matter. A petition was filed on 4th of October 2007 stating that in the relief portion an additional prayer should also be allowed to be made to the effect that in case the findings are in favour of the petitioner then an appropriate declaration in her favour declaring her as the elected Mukhiya for the post after removing the elected Mukhiya be added thereto. This petition was entertained on the very next day and the amendment has been allowed on 5.10.2007. This Court is not very happy in the way the Court of Munsif has proceeded in the matter or the casual way a petition for such amendment has been entertained within a day of its filing and order has come to be passed. Any amendment to any plaint or petition is a serious issue and requires due application of mind before the same can be entertained or allowed. There are set principles in this regard before an amendment is entertained no doubt Courts have been liberal in matters of allowing amendments but unfortunately a perusal of the order dated 5.10.2007 does not reflect as to what went into the mind of the Court or the Munsif or why

it allowed the said amendment. It is not sweet will or discretion of the Court below to allow an amendment at any point of time. Any and every order of the Court must reflect the reason why the said order came to be passed. It is not one of those issues where there is a discretion vested on the Court below to allow an amendment as and when it is convenient to the Court or the party in question. In absence of any reasoning having been given in the order dated 5.10.2007, the order dated 5.10.2007 is hereby set aside.

2. The writ application stands allowed and the order dated 5.10.2007 passed in Election Case No. 24/2006 is hereby set aside.