
(2004) 04 PAT CK 0115
In the Patna High Court
Case No : C.W.J.C. No. 723 of 2002

Ashok Paswan

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 28-04-2004

Acts Referred:

Citation : (2004) 3 PLJR 335

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Sanjeev Kumar Verma, for the Appellant; JC to G.P. VII for State and K.B. Nath, for the Respondent

Final Decision : Dismissed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the order-dated 26.7.2001 passed by the Munsif, Saharsa in Election Petition No. 44 of 2001 whereby he had debarred the Petitioner from filing the written statement. Further prayer made by the Petitioner is to quash the order dated 5.9.2001 (Annexure-3) whereby his prayer for recall of the order dated 26.7.2001 has been rejected.

2. Short facts giving rise to the present application are that the Petitioner as also Respondent No. 4 contested the election to the office of Mukhiya of Nauhatta (West) Gram Panchayat. In the said election, Petitioner was elected. Respondent No. 4 who lost the election, challenged the Petitioner's election by filing a election petition which was registered as Election Petition No. 44 of 2001. Petitioner appeared in the election petition and prayed for time to file the written statement which was granted. Thereafter, the Petitioner made prayer for time to file the written statement on 2.7.2001 which was also acceded to. Thereafter the election petition was taken up on 17.7.2001 and on that date also, Petitioner filed application for time to file written statement and the learned Munsif acceded to his prayer making it clear that the opportunity to file the written statement has been given as the last chance. Petitioner did not avail that opportunity and

when the matter was taken up on 26.7.2001, he again filed application for time to file the written statement which was turned down and the Petitioner was debarred from filing the written statement. Thereafter, the Petitioner filed application for recall of the said order and by the impugned order dated 5.9.2001, said prayer has been rejected and while doing so, the learned Munsif observed that a trend has developed among the litigants not to avail the opportunity given to them to file written statement and to wake up only-when the adverse order is passed. This practice deserves to be curbed.

3. Mr. Sanjeev Kumar Verma appearing on behalf of the Petitioner submits that the Petitioner was given only two opportunities to file the written statement and in fact of the present case, the learned Munsif ought to have acceded to the request of the Petitioner to allow him time to file written statement.

4. JC to G.P. VII appears on behalf of the State whereas the State Election Commission is represented by Mr. K.B. Nath.

5. Mr. Arun Kumar appearing on behalf of Respondent No. 4, however, submits that while granting time by order dated 17.2.2001, the learned Munsif had made it clear that the opportunity was being given to the Petitioner as a last phance and when he did not avail that opportunity, he has to blame himself for that.

6. Having considered the rival" submission, I find substance in the contention of Mr. Verma. The matter related to the validity of an election to a Gram Panchayat and such petition deserves to be disposed of with a reasonable speed. Here in the present case, the learned Munsif granted to the Petitioner sufficient time to file the written statement and on an earlier date, made it clear that last opportunity has been given to him. Petitioner did not avail that opportunity and it seems that his object, being the returned candidate, was to delay the disposal of the election petition. It goes to the credit of the learned Munsif, who was in seisin of the matter, that he thwarted the said attempt.

7. I do not find any merit in this application and it is dismissed accordingly. No cost.