

(2015) 07 SC CK 0141

In the Supreme Court Of India

Case No : Special Leave to Appeal (C) No. 17113/2015 and SLP (C) No. 17123/2015

Bihar Legislative Council

APPELLANT

Vs

Union of India (UOI) and others

RESPONDENT

Date of Decision : 06-07-2015

Acts Referred:

Citation : (2015) 9 SCC 292

Hon'ble Judges : H.L. Dattu, C.J.I., Arun Mishra and Amitava Roy, JJ.

Bench : Full Bench

Advocate : L.N. Rao, Sr. Advocate, Abhinav Mukerji, Bihu Sharma, Purnima Krishna, Advocates, Ashok Desai, Meenakshi Arora, Sr. Advocates, S.K. Mehdiratta, Neeraj Kumar and Mohit D. Ram, Advocates, for the Appellant; S.B. Upadhyay, Senior Advocate and Santosh Mishra,

Final Decision : Allowed

Judgement

1. After hearing Shri Ashok Desai and Shri L. Nageswara Rao, learned senior Counsel appearing for the Election Commission of India and the Bihar Legislative Council respectively, we issue notice to the Respondents.

2. Learned Counsel, on caveat, enters appearance and accepts notice.

3. Shri Desai, learned senior Counsel has filed an additional affidavit of Mr. K.F. Wilfred, Son of K.T. Francis, Principal Secretary, Election Commission of India, New Delhi.

4. The said additional affidavit is placed on record.

5. In the said additional affidavit, at paragraph 8 the Principal Secretary has stated as under:

The Election Commission submits that in the event of this Hon'ble Court holding and deciding that the members of the Legislative Council have to retire in proportion of 1/3rd members as per the provisions of Article 172 and the same

should apply also to the category of candidates for the present election (category of candidates to be elected by local authorities/panchayats/municipal council/corporations) to the Legislative Council of Bihar, the Election Commission states that after the elections, the Election Commission shall then categorize the elected members into three categories (i.e. having term of 2, 4 and 6 years respectively) by draw of lots in accordance with the decision or direction of this Hon"ble Court.

6. In our opinion, the aforesaid suggestion made by the Principal Secretary to the Election Commission of India may be accepted.

7. Accordingly, we stay that portion of the order passed by the Division Bench of the High Court wherein the High Court has directed that "the Election Commission, in consultation with the Legislative Council, Bihar shall identify 1/3rd of the 24 seats earmarked for local authorities for a term of two years, another 1/3rd seats, for a term of four years and the remaining 1/3rd, for six years by issuing necessary notification, amendment or clarification, as the case may be, by 30th of June, 2015."

8. The order passed by us today will be subject to the final result of these Special Leave Petitions.

9. We request the respective learned Counsel to complete the pleadings as early as possible.

10. Call the matters after six weeks.