
(2003) 03 PAT CK 0068
In the Patna High Court
Case No : C.W.J.C. No. 6871 of 2002

Bihar Rajya Panchayat Parishad

APPELLANT

Vs

The Election Commission and Others

RESPONDENT

Date of Decision : 07-03-2003

Acts Referred:

Constitution of India, 1950 — Article 171(3)

Citation : (2003) 51 BLJR 775

Hon'ble Judges : Ravi S. Dhavan, C.J.; R.N. Prasad, J

Bench : Division Bench

Advocate : M.P. Gupta, S.K. Ghose, AAG 2, for the Appellant; J.P. Khan, SC, for the Respondent

Judgement

Ravi S. Dhavan, C.J. and R.N. Prasad, J.—The Election Commission of India has had a statement made through its Counsel Mr. J.P. Karn on instruction received by him by communication No. 509/90/2002/JS-I/557 dated 10 February, 2003. It is reproduced:

"I am directed to invite a reference to the order passed by the Hon"ble High Court on 17-1 -2003 in the above matter.

In this connection, it is stated that the Fourth Schedule to the Representation of the People Act, 1950 (in relation to Bihar) has been amended vide Representation of the People (Second Amendment) Act, 2002, notified by the Ministry of Law and Justice. A copy of the said amendment Act is sent herewith.

Before holding the pending elections to the Legislative Council, the Delimitation of Council Constituencies (Bihar) Order, 1951, requires some amendments on account of creation of new districts in the State. The Commission has already sent to the Ministry of Law and Justice, a draft notification for carrying out necessary amendments in the said Order. This notification is required to be issued by the Ministry of Law and Justice. The Commission is pursuing the matter with that Ministry for early notification of the amendment. A copy each of the

letters dated 23-1-2003 and 5-2-2003, issued to the Ministry of Law and Justice in this regard is also enclosed. The Election Commission has also instructed the State Chief Electoral Officer to finalise immediately the proposals for appointment of Returning Officers and Assistant Returning Officers for the local authorities constitutences."

From what has been indicated to the Court, two things are clear, a notification has yet to be made by the Government of India. In so far as the second aspect is concerned, the full circle will only turn after the notification has been issued so that the direction of the Election Commission of India and its instructions to the State Chief Electoral Officer to finalise proposal for appointment of Returning Officers, etc. can be given effect to.

2. Let Counsel for the Election Commission of India impress upon both the Commission and the Government of India that the steps which are pending be undertaken forthwith as there is a void in the Legislative Council under Article 171(3)(a) of the Constitution of India.

3. Put up during the week of 24 March, 2003 in the supplementary list.

4. Let a copy of this order be given to Council for the Election Commission of India Mr. J.P. Karn, SC.