
(2004) 09 PAT CK 0117
In the Patna High Court
Case No : C.W.J.C. No. 455 of 2002

Chandra Deo Bind and Another	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 09-09-2004

Acts Referred:

Citation : (2004) 4 PLJR 553

Hon'ble Judges : Nagendra Rai, Acting C.J.; S.N. Hussain, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The matter relates to election to the office of the Chairman and the Vice Chairman of the Zila Parishad, Rohtas. On 10.8.2004, the matter was argued at a great length by Mr. Binod Kumar Kanth, learned senior counsel, assisted by his junior counsel on behalf of the petitioner and Mr. R.B. Mahto, learned senior counsel, assisted by his junior counsel, on behalf of the private respondents and, thereafter, they agreed that since the matter was pending since long, let the controversy be set at rest by holding a fresh election and whoever would secure the majority votes would function as Chairman and the Vice Chairman of the said Parishad. Thereafter, on the basis of the said concession, a consent order was passed on 10.8.2004.

2. It appears that SLP (Civil) No. 17547 of 2004 was filed before the Apex Court by the petitioner against the aforesaid order and a statement was made that no concession was made by the petitioner or by his counsel and an affidavit to that effect was also filed. The Apex Court disposed of the matter by order dated 26.8.2004, which runs as follows:-

Heard learned counsel for the parties.

Contention of the petitioner in this SLP is that the impugned order is based on a concession which according to the petitioner is not actually made by him or his counsel, he has filed an affidavit to this effect. On the facts of this case, we think

it more appropriate that error, if any, in the impugned order should be brought to the notice of the High Court in the first instance. Therefore, we direct the petitioner to approach the High Court and point out the fact that there was no such concession made.

Since, we are directing the petitioner to approach the High Court, we also think it appropriate that the election scheduled to be held on 29th August, 2004 may be held on that date but result of the election shall be withheld until further orders of the High Court, With the above observation, the SLP is disposed of.

3. Thus, the Apex Court has directed the petitioner to approach this Court and point out the aforesaid infirmity in the order.

4. In our view, it is unfortunate that such statement on affidavit was made before the Highest Court of the land. The case was pending in this Court since 2002 and after both the said learned Senior Counsel agreed, the aforesaid consent order was passed.

5. Today, when the case was called out, learned senior counsel appearing for the petitioner Mr. B.K. Kanth, who appeared in the case earlier, did not appear to state that no such concession was made, on the other hand, Shri Shyama Prasad Mukherjee, learned senior counsel, appeared on behalf of the petitioner and he wanted to argue the matter on merit.

6. As we are of the view that the order dated 10.8.2004 was passed on concession and a deliberate false statement was made before the Apex Court, there is no question of reconsideration of the matter on merit. Accordingly, the petition (I.A. No. 4504 of 2004) filed for reconsideration of the matter is dismissed. It is made clear that if the election has been held, the result be declared.