
(2001) 02 PAT CK 0018
In the Patna High Court
Case No : C.W.J.C. No. 2566 of 2001

Kamleshwari Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 28-02-2001

Acts Referred:

Citation : (2001) 3 PLJR 69

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Judgement

Aftab Alam, J.—This Court is deeply unhappy at the manner in which the election process for the local bodies are being conducted by the Field Officers. The writ petition in hand is a case in point where the Returning Officer seems to have acted not only quite unreasonably but also patent disregard of the statutory provisions and the instructions issued by the State Election Commissioner.

2. The Petitioner filed his nomination from Dhoraiya Middle Constituency for being elected as one of the Members of the Banka Zila Parishad. His nomination was proposed by a certain Mansoor Khan. In course of scrutiny, the Returning Officer rejected the nomination paper on the sole ground that the proposer, in the column for his name, had apart from mentioning his own name, had also given the name of his father. This, according to the Returning Officer, was not warranted having regard to Form 6 in which the nomination paper was to be filed and this mistake made the nomination itself liable to be rejected.

3. The decision taken by the Returning Officer to reject the Petitioner's nomination on the aforesaid ground appears to this Court to be grossly unreasonable. It is true that in Form 6, the relevant columns read as follows:

4. However, if the proposer, as in this case, gave the name of his father, it was only to further confirm his identity and it was not going to affect the election process in any conceivable manner.

5. Moreover, the relevant rule adequately take care of such mistake, even if it can be called a mistake. Rule 41 deals with the scrutiny of nomination paper and Sub-rule (3) provides as follows:

6. The mention of the father's name even if it could be called a mistake was fully covered by Sub-rule (3) of Rule 41 and the Petitioner's nomination was, thus, fully protected by Rule 41, Sub-rule (3) of the Act. This Court has, therefore, no hesitation in holding that the Returning Officer has acted illegally and arbitrariness in rejecting the nomination in question.

7. The order of the Returning Officer rejecting the Petitioner's nomination is set aside; as a consequence, the Petitioner nomination stands restored. The (sic) Officer is directed to take the consequential steps regarding printing of (sic) papers etc. keeping in view that the nomination of the Petitioner stands restored by this order. Let a copy of this order be given to the counsel appearing for the State Election Commission.