
(2009) 01 PAT CK 0075
In the Patna High Court
Case No : CWJC No. 13363 of 2007

Kusum Devi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 28-01-2009

Acts Referred:

Citation : (2009) 57 BLJR 1173

Hon'ble Judges : Ramesh Kumar Datta, J

Bench : Single Bench

Advocate : B.N.P. Singh, for the Appellant; Amaresh Kr. Sinha, A.C. to G.P. 15 and R.S. Pradhan, for the Respondent

Final Decision : Allowed

Judgement

Ramesh Kumar Datta, J.—Heard learned Counsel for the petitioner and learned Counsel for the State.

2. No one appears for respondent No. 8 although notices were duly served upon her and power has also been filed on her behalf.

3. The petitioner is aggrieved by the order dated 3.8.2007 passed by the Election Tribunal-cum-Munsif, Masaurhi, in Election Petition No. 4/2006 (Kusum Devi v. the State Election Office and Ors.) by which the petitioner's prayer for amendment has been rejected.

4. The petitioner, being the defeated candidate in the election for the post of Mukhiya, has filed the election petition. At a later stage it was noticed that there were certain typographical errors in the election petition which needed to be rectified so as to not defeat the case of the petitioner and, accordingly, amendment petition was filed. The same was rejected by the impugned order on the grounds that the same was filed belatedly and without any valid reason.

5. Out of the six amendments sought by the petitioner, learned Counsel for the State points out that so far as amendment No. 2 is concerned, the same is not a

formal one and mere typographical error but would have the effect of changing the nature of the case as even one more Ward number is proposed to be added in paragraph 30 apart from changing the figure of votes of dead persons from 13 to 43 and including in the said category such names also which were duplicate according to the petitioner. It is submitted by learned Counsel for the State that such amendment at least ought not to be permitted at the fag end when the matter is at the stage of argument on closing of the evidence of the parties.

6. So far as the other amendments are concerned, the same appear to be merely formal in nature and clearly typographical errors. The said amendments even if had been allowed at the belated stage would not have caused any adverse consequence upon the other side as no amendment in substance could have resulted thereby.

7. In the said facts and circumstances, the writ application is allowed. The order dated 3.8.2007 passed by the Election Tribunal-cum-Munsif, Masaurhi, is partly set aside and the amendment petition is also partly allowed except the amendment sought for in paragraph 2 with respect to paragraph 30 of the election petition.