

(1970) 09 PAT CK 0013
In the Patna High Court
Case No : C.W.J.C. No. 585 of 1970

Paras Pandey @ Paras Nath Pandey

APPELLANT

Vs

Banka Prasad Sah and Others

RESPONDENT

Date of Decision : 16-09-1970

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1971) PLJR 123

Hon'ble Judges : B.D. Singh, J

Bench : Single Bench

Advocate : Thakur Prasad and Rajani Kant Choudhary, for the Appellant; Tara Kant Jha, S.C. II for the Respondent No. 3, for the Respondent

Final Decision : Allowed

Judgement

B.D. Singh, J.—This is an application under Articles 226 and 227 of the Constitution of India challenging the order dated the 4th of February, 1970 (Annexure 2), passed by the Election Officer (respondent no. 2), rejecting the nomination of the petitioner on the ground that his name did not tally with the name entered in Serial No. 1346 of the voter's list (Part IX) of Kuchai Kote assembly constituency. As against that order, the petitioner moved the Sub-divisional Officer, Gopalganj, (respondent no. 3), under Rules 23(4) of the Bihar Panchayat Election Rules, 1959 (hereinafter referred to as "the Rule"), who also by his order dated the 12th February, 1970 (Annexure 3) held that the Election Officer had rightly rejected the nomination paper of the petitioner. Mr. Thakur Prasad, learned counsel appearing on behalf of the petitioner, submits that the petitioner's name is Paras Pandey alias Paras Nath Pandey but in the voters' list (Serial No. 1346) "Paras Pandey", son of Chandrika Pandey is mentioned (Vide Annexure 1). The other descriptions, however, tally with those of the petitioner and it is only due to clerical mistake that the words "Nath" has been omitted from his name in the said serial number in the voters' list. He has urged that according to Rule 22 of the said Rules, respondents 2 and 3 ought not to have

rejected the nomination paper of the petitioner:

22. On the presentation of a nomination paper, the Election Officer shall satisfy himself that the names and voters' numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the voters' list:

Provided that the Election Officer may--

(a) permit any clerical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into Conformity with the corresponding entries in the voters' list; and

(b) where necessary, direct that any clerical or printing error in the said entries shall be over-looked.

Thus, on the facts in the circumstances of the case, the contention of the learned counsel for the petitioner has got to be accepted. In my opinion, both respondent nos. 2 and 3 have erred in passing the orders contained in Annexures 2 and 3 which cannot be sustained.

2. In the result, the impugned orders contained in Annexure 2 and 3 are set aside and the application is allowed. The nomination paper filed by the petitioner may now be accepted. In the circumstances of the case, however, there will be no order as to costs.