
(2007) 05 PAT CK 0058
In the Patna High Court
Case No : CWJC No. 11715 of 2006

Poonam Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-05-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 4 PLJR 305

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Advocate : Yogesh Chandra Verma and Naresh Dass, for the Appellant; Subodh Kumar Jha for Respondent No. 5, M/s Tarakant Jha, Satyajit for Intervenor and Mr. Sunil Kumar Karn for the State, for the Respondent

Final Decision : Dismissed

Judgement

Navin Sinha, J.—Heard learned counsel for the petitioner, learned counsel for the Commission and learned counsel appearing on behalf of Respondent No. 5 and the Intervenor. The petitioner contested for the post of member of Madhepura Zila Parishad. Her nomination was accepted and she was declared elected. A complaint followed by Respondent No. 4 before the Commission that the petitioner was under age and therefore ineligible to contest. A show-cause notice was issued to the petitioner by the Commission. The petitioner rushed to this Court against the show-cause notice. The matter was subsequently heard by the Commission. The Commission by order dated 6.10.2006 unseated her even while observing that she had deliberately delayed the matter. This Court stayed the operation of the order dated 6.10.2006 at Annexure-8.

2. Learned counsel for the petitioner relied upon the voter's list, an affidavit of the father of the petitioner and the assessment done by a Medical Board in a pending litigation to submit that the petitioner was clearly 21 years of age and thus, eligible to file nomination and contest the election. It was, therefore, submitted that in view of the aforesaid documents, the impugned order was

erroneous inasmuch as the Commission could not determine the complicated and disputed question of her age.

3. The material on basis of which the age of the petitioner was challenged before the Commission as being under 21 years was a matriculation certificate showing her date of birth as 10.8.1988. The petitioner does not question the matriculation certificate. This Court considers it appropriate to set out paragraph 25 of the writ petition noticing the stand of the petitioner with regard to her matriculation certificate.

"25. That the petitioner asserts that date of birth as entered into her matriculation certificate is incorrect. The same was given with sole aim of having some benefits in service matter though it was far from truth and not correct."

4. It is quite apparent that the petitioner seeks to rely upon the matriculation certificate when it is to her advantage and seems to deny it when it comes to her disadvantage.

5. In the aforesaid background, this Court is satisfied that in view of the own statement of the petitioner the question of her age was not a disputed and complicated question beyond the jurisdiction of the Commission. If the petitioner now seeks to question her own matriculation certificate on basis of fresh subsequent materials, quite obviously her remedy lies in a Civil Suit.

6. This Court further takes notice of the fact that fresh election has been announced. The petitioner again filed her nomination as is stated in the application filed by the Intervenor-Respondents. This is not disputed by the counsel for the petitioner.

7. This Court is, therefore, satisfied that in the peculiar facts and circumstances of the case where the petitioner admits the document on which reliance is placed to contend that she was under age, but yet seeks to deny the correctness of the same, the present is not a fit case, moreover when the petitioner herself has filed her fresh nomination, to exercise jurisdiction under Article 226 of the Constitution of India to set aside the order dated 6.10.2006 at Annexure-8. In the result, this Court finds no merit in this writ application and the same is, accordingly, dismissed.