
(2009) 07 PAT CK 0011
In the Patna High Court
Case No : MJC No. 1946 of 2009

Praveen Kumar and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 29-07-2009

Acts Referred:

Citation : (2009) 4 PLJR 610

Hon'ble Judges : Shiva Kirti Singh, Acting C.J.; Ravi Ranjan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard the parties. Through MJC No. 1977 of 2009 a prayer has been made by respondents No. 3 and 4 of CWJC No. 1580 of 2009 to modify the order dated 13.4.2009 passed in that writ petition so as to read in the third line from the end of the order "November 2009" in place of "August 2009" and then grant further time till December 2009 for completing the election of Bihar State Bar Council.

2. In support of the said prayer learned Advocate General has submitted that the draft electoral rolls were to be finalized by the end of June 2009 as mentioned in that order but draft electoral roll published on 14/15.6.2009 inviting objection by 20.7.2009 suffered from some major defects and, therefore, final electoral roll has not been published so far. The time for objection to the draft voter list was till 20.7.2009 and hence, he has assured the Court that the final electoral roll shall be published by 20.8.2009. Thereafter he has drawn our attention to provisions in proviso to Rule 4(2) contained in Chapter-I of Part-III of Bar Council of India Rules relating to State Council. That proviso requires that after the publication of electoral roll the elections are to be fixed for a day after not less than 120 clear days from the date of publication of electoral rolls. In view of aforesaid requirement of the rule which appears to be mandatory, it has been submitted by learned Advocate General that elections can be held on any appropriate date depending upon the date of actual publication of final electoral rolls between 15th December, 2009 and 15th January, 2010.

3. On behalf of the writ petitioner the prayer was opposed and it was submitted that on the earlier occasion the time for holding the elections as per prayer on behalf of the Bihar State Bar Council was September 2009 but the Court fixed the time as August 2009 for concluding the elections. He also highlighted certain provisions in the rules requiring the Secretary to make preparations for holding elections in time.

4. There can be no dispute that the elections could not be held in time and it is an unfortunate state of affairs. However, at the present stage we find that the facts do not permit holding of elections by August 2009, the time indicated in the order dated 13.4.2009. In that view of the matter, the prayer made in modification application is allowed to the extent- that now the time for publication of final electoral rolls is fixed as 20th August, 2009 and the time of holding the elections is fixed between 15th December, 2009 to 15th January, 2010.

5. It is made clear that in case the present office bearers of the Bihar State Bar Council or its committee feel any difficulty on any account in maintaining the aforesaid time schedule then they must file an application to this Court without loss of time so that this Court may pass necessary orders and seek help of proper authorities to get the election conducted as per the aforesaid time schedule. The modification application contained in MJC No. 1977 of 2009 as well as contempt application contained in MJC No. 1946 of 2009 shall stand disposed of in terms of this order.