
(2001) 03 PAT CK 0036
In the Patna High Court
Case No : L.P.A. No. 261 of 2001

Rama Ballabh Singh Keshan	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 21-03-2001

Acts Referred:

Citation : (2001) 2 PLJR 267

Hon'ble Judges : S.K. Katriar, J; Nagendra Rai, J

Bench : Division Bench

Advocate : D.K. Sinha, Yogendra Kr. Singh, Ajit Kumar, for the Appellant; Kumar Brajendra Nath for State Election Commission, for the Respondent

Final Decision : Allowed

Judgement

1. This appeal is directed against the order dated 13.3.2001, passed by a learned single Judge of this Court dismissing the writ petition filed by the appellant challenging the order passed by the Returning Officer, Kutumba, district Aurangabad, rejecting the nomination paper filed by the appellant for election to the post of Mukhiya on the ground of contravention of Rule 39 (2) of the Bihar Panchayat Election Rules, 1995 (hereinafter referred to as "the Rules"). The law is well settled that when the election process has started, this Court will not interfere in the matter unless the same has resulted in manifest injustice. In the present case, the nomination paper of the appellant has been rejected on the ground of violation of Rule 39(2) of the Rules which provides that no candidate will file more than two sets of nomination papers. In this case, the appellant has filed four sets of nomination papers. In our view, the appellant has filed two more sets than required according to the aforesaid Rules and in that case the Returning Officer should have rejected the excess sets of nomination papers instead of rejecting the nomination paper of the appellant. The present case is one case where non-interference will result in miscarriage of justice and is unconscionable. There appears to be a complete non-application of mind on the part of Returning Officer. In the result the appeal is allowed and the order

rejecting the nomination paper of the appellant is set aside and the Returning Officer, Kutumba, district Aurangabad is directed to scrutinise the nomination papers afresh in accordance with law within two days from the date of receipt/production of a copy of this order and in case the nomination paper of the appellant is found to be valid, there being no other defect then the appellant will be allowed to participate in the process of election.

2. Let a copy of this order be given to Mr. Devendra Kumar Sinha, Sr. Advocate appearing for the appellant, and Mr. Brajendra Nath, learned counsel for the Election Commission, Bihar, forthwith.