

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

C.W.J.C .No. of 2012

Jaimala Devi @ Pramod Ranjan

.....Petitioner

VERSUS

The State of Bihar and others

..... Respondents

Subject:- Grampanchayat Raj Act

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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

C.W.J.C.No. of 2012

Jaimala Devi @ Pramod Ranjan

.....Petitioner.

VERSUS

The State of Bihar and others

..... Respondents

Prayer: For quashing the letter dt. 12.01.2012 by which respondent Additional Collector, submitted report contrary to the earlier report as Jaimala Devi, and Pramod Ranjan is a one man or different person same has not been verified and further stated that if seem to be a person but she did not adopted the due procedure of change her name, further issued direction to the respondent Election Commission to stay till the disposal of C.W.J.C. No. 1467 of 2012

01.08.07 he petitioner's name Pramod Ranjan @ Jaimala Devi wife of Late Bharat Yadav @ Bharat Kumar Yadav she choose to fight election on the post of Mukhiya of Grampanchayat Gwalpara defeated persons filed the application before the Panchayat Raj Officer, alleging that Jaimala Devi and Pramod Ranjan is two persons hence the election of the petitioner should be cancelled, on the basis of complain petitioner issued a notice vide memo no. 6 dt. 08.01.2007

10.11.2011 After filing complain case by the respondent no.8 an enquiry was entrusted from the Block Development Officer, Gwalpara and submitted report vide memo no. 854-2 dt. 10.11.2011

16.11.2011 District Magistrate -cum- District Election Commissioner Madhepura also submitted report before the Dy. Secretary, State Election Commission, Bihar Patna

18.12.11 Respondents issued admit Card for graduate level P.T. Examination, 2010 and date of examination was fixed on 18.12.2011 and have allotted Roll Nos. petitioner no.1 is 16203417, petitioner no.2 is allotted Roll No. 92203761 and petitioner no.3 allotted roll no. 43207587. Petitioner discharge duty on the post of Mukhia since 2006 by the name of Jaimala Devi till 2011 election, subsequently election was held in 2011 again petitioner fight in election on the post of Mukhiya Grampanchayat Gwalpara Respondent no.8 tried to harassed by way of filing fake and fabricated complain before the State Election Commission, Bihar, Patna with prayer for making enquiry about impersonating the name of Pramod Ranjan

Hence this writ application

283
DEPARTMENT OF POST
BIHAR CIRCLE

COURT FEE

AUTH NO. 3185 DT. 16/12/2008



STAMP DUTY

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Rs. ≈ 0000285 ≈

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11. 5. 2012

BIHAR

3324 14286688

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

C.W.J.C.No.

of 2012

In the matter of an application under Article
226 of the Constitution of India;

A n D

In the matter of

Jaimala Devi @ Pramod Ranjan, daughter of Sri Yogendra Prasad Yadav, wife of Late
Bharat Yadav @ Bharat Kumar Yadav, resident of Village - Gwalpara, East Tola, P.O.
Gwalpara, P.S. Gwalpara, District - Madhepura. At present Mukhiya of Grampanchayat
Gwalpara, Block Gwalpara, District - Madhepura.Petitioner.

V E R S U S

1. The State of Bihar, through the Principal Secretary, Panchayat Raj Department
Government of Bihar Patna.
2. The State Election Commission (Panchayat) through the State Election
Commissioner, Sone Bhawan, Beer Chand Patel Path, Patna.
3. The State Election Commissioner (Panchayat) Sone Bhawan, Beer Chand Patel
Path, Patna.
4. The Secretary, State Election Commission (Panchayat), Sone Bhawan, Beer
Chand Patel Path, Patna.

5. The District Magistrate, Madhepura, District - Madhepura.
6. The Additional Collector, Madhepura, District - Madhepura.
7. The Panchayat Raj Officer, Madhepura, District - Madhepura.
8. Dushyant Kumar, son of Late Hriday Narayan Yadav, resident of Village Gwalpara, P.S. Gwalpara, District Madhepura.Respondents

To,

The Hon'ble Miss Rekha M. Doshit, Chief Justice of the High Court of Judicature at Patna and his companion Justices of the said Hon'ble Court.

The humble application on behalf of petitioners above named.

Most Respectfully Sheweth:-

1. That this writ application is being filed for issuance of writ in the nature of certiorari for quashing the letter dt. 12.01.2012 by which respondent Additional Collector, submitted report contrary to the earlier report as Jaimala Devi, and Pramod Ranjan is a one man or different person same has not been verified and further stated that if seem to be a person but she did not adopted the due procedure of change her name, further issued direction to the respondent Election Commission to stay till the disposal of C.W.J.C. No. 1467 of 2012 and further give other legal and consequential attached with the petitioner.
2. That main point involved in this writ application are as follows :
 - (i) Whether the petitioner have already been elected as Mukhiya in the year, 2006 and private respondent and others defeated the race for the election of Mukhiya, they have claimed as same complain that the petitioner Jaimala Devi and Pramod Ranjan is two person after due enquiry found that both name is one person who is the wife of Late Bharat Yadav @ Bharat Kumar Yadav or not ?

- (ii) Whether same set of complain already been settled in the year, 2006, after over tenure of the Panchayat Election again petitioner fight election on the basis of name transpire in the voter list namely Jaimala Devi, wife of Bhagat Yadav and have win the election on the post of Mukhiya in Grampanchayat and defeated the respondent or not ?
 - (iii) Whether respondent authority after due enquiry found that no case of impersonating as Jaimala Devi @ Pramod Ranjan is a one person, against her name no complain as showing by her name the petitioner fighting election and win the election by their names or not ?
 - (iv) Whether respondent No. 8 have already defeated the election of Grampanchayat Gwalpara and petitioner win the election of the Grampanchayat on the post of Mukhia, since very date respondent harassed without any clausable reason or not?
 - (v) Whether action of the respondent is illegal, malafide, and discouragement of justice due to non publication of the result of petitioner or not?
3. That the petitioner is citizen of India and he is entitled for right guarantee under the constitution of India.
 4. That the petitioner's name Pramod Ranjan @ Jaimala Devi wife of Late Bharat Yadav @ Bharat Kumar Yadav she choose to fight election on the post of Mukhiya of Grampanchayat Gwalpara and filed an application as her name running in the voter list as Jaimala Devi, wife of Bharat Yadav and win the election of Grampanchayat 2006 on the post of Mukhiya.

. A true/photo copy of certificate of election 2006
is annexed as Annexure-1 with this petition

5. That soon after over of the election the defeated persons filed the application before the Panchayat Raj Officer, alleging that Jaimala Devi and Pramod Ranjan is two persons hence the election of the petitioner should be cancelled, on the basis of complain petitioner issued a notice vide memo no. 6 dt. 08.01.2007 by the District Panchayat Raj Officer, Madhepura by which asked to submit show cause as alleged complain and petitioner submitted her show cause inter alia stated that my name is Jaimala Devi and Pramod Ranjan but her husband name is Bharat Yadav @ Bharat Kumar Yadav and father name is Sri Jogendra Prasad Yadav, after due enquiry show cause of petitioner was allowed.

A true/photo copy of the complain ~~as well as~~ show cause is annexed to and marked as Annexure-2 with this petition. ^{dt. 12.11.07}

6. That the petitioner discharge duty on the post of Mukhia since 2006 by the name of Jaimala Devi till 2011 election, subsequently election was held in 2011 again petitioner fight in election on the post of Mukhiya Grampanchayat Gwalpara and have win the election, 2011 and have defeated the election to respondent no.8.

A true/photo copy of the certificate of election, 2011 is annexed as Annexure-3 with this petition.

7. That soon after over of election respondent no.8 tried to harassed by way of filing fake and fabricated complain before the State Election Commission, Bihar, Patna with prayer for making enquiry about impersonating the name of Pramod Ranjan, wife of Late Bharat Yadav as Jaimala Devi, wife of Late Bharat Yadav by the petitioner and thereafter electing on the post of Mukhiya Grampanchayat, by furnishing wrong information regarding her date of birth.

A true/photo copy of the complain is annexed as Annexure-4 with this petition.

8. That after filing complain case by the respondent no.8 an enquiry was entrusted from the Block Development Officer, Gwalpara and submitted report vide memo no. 854-2 dt. 10.11.2011 by which hold that the petitioner has hold that there is no any case of personating on the ground the house name of the petitioner is Jaimala Devi, her name mentioned in the voter list as Jaimala Devi which is coming on since ago, further hold that Pramod Ranjan and Smt. Jaimala Devi is only one person.

A true/photo copy of enquiry report dt. 10.11.2011 is annexed as Annexure-5 with this petition.

9. That the District Magistrate -cum- District Election Commissioner Madhepura also submitted report before the Dy. Secretary, State Election Commission, Bihar Patna after hearing the both party hold that on the affidavit filed by the petitioner in the year, 2006 on the basis she was elected and further hold that she has not adopted due procedure for changing her name but both are a person .

~~A true/photo copy of letter dt. 10.11.2011 is annexed as Annexure-6 with this petition.~~

10. That further Additional Collector Madhepura enquired the matter and submit the report before the District Magistrate and hold that he did not come into conclusion that Jaimala Devi and Pramod Ranjan is a person or a different person but if any deem to that a persons event then she should not adopted a due procedure for changing her name meaning thereby on the basis of the report no case of impersonating as complaint filed by the respondent no.8.
11. That it is needful to stated here that petitioner is only one widow of Late Bharat Yadav @ Bharat Kumar Yadav and daughter of Sri Yogendra Prasad Yadav,

resident of Village Gwalpara East Tola, P.O. + P.S. Gwalpara, District - Madhepuera her name running in the school register as Pramod Ranjan, in the school register date of birth mentioned as 08.10.1970, she enhance qualification as Madhyama thereafter she filed an application for appointment on the post of Sahaika within the Grampanchayat Gwalpara in the year, 2004, where name of her husband is mentioned as Bharat Yadav @ Bharat Kumar Yadav and she selected on the post of Sahaika and thereafter in the year, 2006 she given resignation on the post of Sahaika for fighting election on the post of Mukhiya of Grampanchayat Election, 2006.

12. That it is needful to stated here that the village of father and her laws family is Gwalpara, Grampanchayat Gwalpara, her house use name is Jaimala @ Jaimala Kumari @ Jaimala Devi, since ago child hood, not only villager and house member and her relatives, petitioners known as Jaimala, prior to marriage she known as Jaimala Kumari and after marriage with let Bharat Yadav @ Bharat Kumar Yadav then she known as Jaimala Devi only this cause complain was filed in the year, 2006 as well as 2011 by the defeated parties of the election.
13. That it is not a dispute that let Bharat Yadav @ Bharat Kumar yadav with marriage with petitioner and he has only one wife thus question arise Jaimala Devi is wife to whom, certainly answer is Jaimala devi is wife of Bharat Yadav @ Bharat Kumar Yadava, because if any two wife as Pramod Ranjan and Jaimala Devi when voter list is running as two wife of Bharat Yadav 1. Pramod Ranjan, wife of Bharat Yadav, and Jaimala Devi wife of Bharat Yadav, but since ago voter list is contain only name of wife of Bharat Yadav namely Jaimala Devi, resident of Village Gwalpara, District - Madhepura bearing M.Q.P 3396504.

A true/photo copy of the voter identity card is annexed as annexure-6 with this petition.

14. That it is needful to stated here that husband of the petitioner namely Late Bharat Yadav died in road accident on 16.12.2005 at 6.30 A.M. and case was instituted as Udakisunganj P.S. Case No. 108/2005 under section 279/ 337/ 338/ 504 I.P.C.by Hare Ram Yadav brother of Husband of Petitioner,Since very date petitioner is only one widow of Late Bharat Yadav.
15. That soon after death of her husband ,by road accident on 16.12.2005, while she traveling in bus, she filed a claim case ,before the claim tribunal, where petitioner name also mentioned as Jaimala Devi wife of Late Bharat Yadav, for sake of evidence petitioner has advised to annexed a claim petition ,which was filed before the Tribunal Madhepura.
16. That Identity Card of Election Commission of India issued on 04.02.2004 where name of petitioner mentioned as Jaimala Devi wife of Bharat Yadav serial number mentioned as 214, perusal of said voter list of 2004, lordship will be find that Jaimala Devi is wife of Bharat Yadav, if any Bharat Yadav having 2nd wife, then her name should be figured in the voter list but does not any where in the voter list of 2004.

~~A true photo copy of the voter list of 2004 is an
annexed as Annexure 7 with this petition.~~
17. That the petitioner is being widow of late Bharat Yadav and wish to fight election of Grampanchayat, on the post of Mukhiya and she is given resignation on the post of Sahiyaka and filed nomination of the Grampanchyat Election, 2006,as her name running in the voter list as wife of Bharat Yadav, she is only one wife of Bharat Yadav, no any other claimant as wife of late Bharat Yadav and have not filed any

complaint either before your Honour or any where in the competent court of India till today thus no question arise as impersonation.

18. That the petitioner come to know that the register name of the petitioner could not figure in the voter list rather her alias name transpired as Jaimala Devi as wife Bharat Yadav, then she had rushed before the election authorities asked about the matters, then authority have adviced to file nomination papers as name running in the voter list, hence she filed nomination papers as Jaimala Devi wife of Late Bharat Yadav, after due scrutiny, her nomination paper allowed and she declared on the post of Mukhia in the year, 2006 and she got a certificate by Election Officer, Since 2006 to last election, she was discharging duties as Mukhiya of grampanchayat Gwalpara, Block Gwalpara, District Madhepura but no complain against her except after Election 2011.
19. That since date of declaration of election 2006, on the post of mukhia of Grampanchayat, Gwalpara , she discharging duty as per guideline and law without any complain against her.
20. That since declared election 2006 and the post of Mukhiya by name of Jaimala Devi ,no any persons claimed as petitioner is not wife of Late Bharat Yadav, when, 2011 voter list of the Grampanchayat was prepared ,name of the petitioner transpired at sl. no. 258 as wife of Bharat Yadav, hence she has to file nomination as again name of Jaimala Devi.

~~A true/photo copy of voter list of 2011 is annexed as Annexure-8 with this petition.~~

21. That it is needful to stated here that instant complaint petition is relates for making about impersonating the name of Pramod Ranjan, wife of Late Bharat Yadav as Jaimala Devi, wife of Late Bharat Yadav by the petitioner and thereafter electing

on the post of Mukhiya of Gwalpara Grampanchayat by furnishing wrong information regarding her date of birth while entire election of impersonating the name of opposite parties and furnishing wrong information regarding her date of birth, when entire allegation of impersonating the name of petitioner and furnishing wrong information is absolutely false, concocted baseless, because she filed nomination paper as her name running in the voter list, which was prepared under jurisdiction of your Honour

22. That relief prayed, in the complaint petition are misconceived and have no leg to stand upon.
23. That the ground given by complaint in the support are imaginary against the material on record and are based on imaginary figure as a matter of fact that complainant is trying to dispossess from the post of Mukhiya to the opposite parties for taking wrong advantage of his wrong and baseless ground of the complainant, through as matter of fact is that there is absolutely no irregularity, illegality occurred by the petitioner in the said election i.e. entire election of impersonating her name and furnishing wrong information regarding her date of birth against the opposite parties is absolutely false, concocted, malafide just and baseless.
24. That complaint petition is not under preview of under section 136 Bihar Panchayat Raj Act 2006, on the basis of false, concocted allegation, the complain filed against petitioner, whenever he is well aware the fact that Petitioner Jaimala Devi @ Pramod Ranjan, more than about 40 years, daughter of Sri Yogendra Prasad Yadav, wife of Late Bharat Yadav @ Bharat Kumar Yadav, resident of Village Gwalpara, East Tola, P.O. Gwalpara, P.S. Gwalpara, District - Madhepura, even

than filed present case , only misused provision of law. of 136 of Bihar Panchayat Raj Act.

25. That Additional Collector without due enquiry the matter as per complaint filed by respondent regarding impersonating submitted report as seem to be same person but not go to in detail wether wife Late Bharat Yadav @ Bharat KumarYadav is /was more than petitioner, as report no other than petitioner in this circustance report submitted ex-officio report. A ture/photo copy of dt.12.01.12 is annexed as Annexure-~~6~~⁶ with this petition.
- 26 That it is needful to stated here that similarly situated matter is pending for disposal of C.W.J.C. No. 1467 of 2012.
- 27 That on the light of above facts and circumstances, it is fit case for allow.
- 28 That the action of the respondent is illegal, arbitrary, malafide and miscarriage of justice by passing order impugned.
- 29 That on the above facts and circumstances of the case petitioner deserve relief by this Hon'ble Court.
30. That petitioner has no other efficacious and alternative remedy save and except to move before this Hon'ble Court.
31. That petitioner has not moved any time earlier for the relief sought for in para-1 of this writ application.

It is therefore, prayed that your lordship may graciously be pleased to issue notice to show cause as to why the relief sought for in para-1 of this writ application be not granted to the petitioner and upon cause being shown if any and after hearing the parties pass such other order/orders as your

lordships may deem fit and proper in the facts and circumstances of the case,

and/or

during the pendency of the writ application further proceeding of this case no. 17/2011 pending before the respondent State Election Commission, Bihar may kindly stayed.

And for this the petitioner shall ever pray.

AFFIDAVIT

Jaimala Devi @ Pramod Ranjan, aged about 40 years, daughter of Sri Yogendra Prasad Yadav, wife of Late Bharat Yadav @ Bharat Kumar Yadav, resident of Village - Gwalpara, East Tola, P.O. Gwalpara, P.S. Gwalpara, District - Madhepura. At present Mukhiya of Grampanchayat Gwalpara, Block Gwalpara, District - Madhepura do here by solemnly affirm and stated as follows:-

1. That I am petitioner ~~no.~~ in this case and as such am well acquainted with the facts and circumstances of the case.
2. That I have gone through the contents of this application and have fully understood the same. The statements made in paragraphs no. 3,10,11,12,14,15,17 to 19 and 21 to 28 are true to my knowledge and those made in paragraphs no. 4,5,6,7,8,9,13,16,20 are based on information derived from the records of the case and rest are by way of submission before this Hon'ble Court.
3. That annexures are true/photo copies of the originals.

जयसामा देवी

Annexure

43

प्रपत्र - 22
(नियम 82,99 देखिये)

निर्वाचन प्रमाण-पत्र

मैं जय किशोर सिंह निर्वाची पदाधिकारी / अध्यक्ष

इसके द्वारा प्रमाणित करता हूँ कि मैंने दिनांक... 14... माह... 06... वर्ष... 2006... को

श्री/सुश्री/श्रीमती... जयमाला देवी जो

श्री/श्रीमती... स्व. भरत थाकव के/की पुत्र/पुत्री/पत्नी है और

जो... 07... ग्राम... 07... प्रखंड... मर्चेपुरा जिला

के/की निवासी है, को ... मुरिया (पद लिखें) के रूप में.....

07... (निर्वाचन क्षेत्र संख्या/नाम लिखें) से, जो... 31... ..

(आरक्षण कोटि लिखें) के लिए आरक्षित/अनारक्षित है, सम्यक् रूपेण निर्वाचित घोषित किया है तथा प्रमाण स्वरूप मैंने

उन्हें यह निर्वाचन प्रमाण-पत्र दिया है।

स्थान - मंडल कारा उदारिथुर्कज

तारीख - 14.06.2006



14.06.2006

निर्वाची पदाधिकारी

का हस्ताक्षर

सेवा में,

Annexure-2

15/5

श्रीमान् जिला पंचायती राज पदाधिकारी,
मधेपुरा.

प्रतिग : श्रीमान् का ज्ञापक- 06/ दिनांक 8-01-2007

विषय : उपरोक्त ज्ञापक के अनुपालन में ज्यमाला देवी
मुखिया, ग्राम पंचायत, गवाल्पाहा का स्पष्टीकरण.
महाशय,

प्रास्तामिक ज्ञापक के सम्बंध में निवेदन है कि लगाये गये
आरोप विवेचना एवं कर्मटुर्ण है ।

यह कि भारतीय संविधान अन्तर्गत लोक प्रतिनिधि कानून
एवं पंचायत राज अधिनियम अन्तर्गत, कोई भी स्था प्रास्थान नहीं है, जो
किसी व्यक्ति को एक से ज्यादा नाम रखने पर फावदी लाता हो या एक
से ज्यादा नाम रखने वालों पर कोई बंदीश लाता हो । भारत वर्ष में नाम
उपनाम जाति वाक्य उपनाम इत्यादि की परम्परा हजारों वर्षों से है ।
यहाँ तक कि वैदिक काल में भी एक ही व्यक्ति के भिन्न- 2 कर्तव्यों
के लिए भिन्न नामों से उपकृत रहे थे । यहाँ तक कि बैंकों में भी ऐसी
कोई वर्धना नहीं है । व्यक्ति का पहचान होता है, चाहे एक नाम हो
या तीन ।

अतः एक से ज्यादा नाम रखना या होना किसी भी
व्यक्ति के किस्म अपराध के श्रेणी में नहीं आता ।

यह कि मैंने ज्यमाला देवी के नाम से विगत पंचायत
चुनाव में मुखिया पद के लिए उम्मीदवार हुई और चुनी गई, चूँकि मेरा
नाम मतदाता सूची में यहाँ नाम दर्ज रहा था । मेरे वैयक्तिक प्रमाण-पत्रों
में मेरा नाम प्रमोद रंजन पिता श्री योगेन्द्र प्रो यादव साठ+ साठ-
गवाल्पाहा, पाना- गवाल्पाहा पति स्व. भरत कुमार यादव साठ-
गवाल्पाहा है, जिसे मैं चुनाव के पूर्व ही निर्वाची पदाधिकारी, अनुसूचित
कल्याण पदाधिकारी सह बाल विकास परियोजना पदाधिकारी इत्यादि
को शपथ-पत्र दिनांक 17-3-2006 के माध्यम से समर्पित आवेदन दे चुकी हूँ,
जिससे स्पष्ट है कि मैंने दोनों नामों में से किसी भी नाम का

तपयोग नहीं किया और न ही इस बात को छिपाई ही है ।

यह कि मिथिलेश कुमार द्वारा लाये गये आरोप तथ्यहीन है, गिनेगुना है और मुझे अपमानित करने के लिए लाया गया है ।

मैं इस स्पष्टीकरण के साथ अनुमंडल कल्याण पदाधिकारी सह बाल विकास परियोजना पदाधिकारी को शपथ-पत्र से समर्थित दिनांक - 17.3.2006 को दिये गये आवेदन की प्रति संलग्न कर रही हूँ, जिससे स्थिति इस सम्बंध में स्पष्ट हो जायेगी । जैसी मेरी जानकारी है, अनुमंडल पदाधिकारी सह बाल विकास परियोजना पदाधिकारी ने अपने स्तर से जांच किया है और आरोपों को निराधार व मनाकत पाया है ।

अतः निवेदन है कि मेरी इस स्पष्टीकरण को स्वीकार किया जाय और मुझे अनुमति दिया जाय कि मैं मिथिलेश कुमार के विरुद्ध मान-हानि का मुकदमा सक्षम न्यायालय में दायर कर सकूँ ।

विश्वासभाजिका

जायसामादेवी

मुस्का,

ग्राम पंचायत- गवाल्पाड़ा

प्रखंड- गवाल्पाड़ा, 12/1/07

जिला- मधेपुरा.

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99 देखिये)

परिशिष्ट - 7

पंचायत निर्वाचन

निर्वाचन प्रमाण-पत्र

मैं गुलाम मुस्तफा निर्वाची पदाधिकारी/अध्यक्ष इसके द्वारा

प्रमाणित करता हूँ कि मैंने दिनांक मई वर्ष २०११ को

श्री/शुश्री/श्रीमती जय माता जो

श्री/श्रीमती सरत यादव के/की पुत्र/पुत्री/पत्नी हैं

और जो उवालपाड़ा ग्राम उवालपाड़ा प्रखण्ड, मधेपुरा

जिला के/की निवासी हैं, को आरक्षित के सुरक्षित के रूप में

(पर लिखें)

नि.क्ष. सं.-०७, उवालपाड़ा जो अनारक्षित

(निर्वाचन क्षेत्र संख्या / नाम लिखें)

(आरक्षण कांच लिखें)

के लिए आरक्षित/ अनारक्षित है, सम्यक् रूप से निर्वाचित घोषित किया है तथा प्रमाणित किया है

मैंने उन्हें यह निर्वाचन प्रमाण-पत्र दिया है।

सतगणना कक्षा,

स्थान : डी.आर.डी.ए. मधेपुरा

तारीख: २३-०५-२०११

निर्वाची पदाधिकारी/अध्यक्ष का हस्ताक्षर

(पदनाम की मुहर)

निर्वाची पदाधिकारी

प्रखण्ड- उवालपाड़ा (मधेपुरा)

J. Prasad

(17)

Before,

The State Election Commission,

Bihar, Patna.

Case no. 17 of 2011.

Dushyant KumarComplainant.

Versus

Jaymala Devi Opposite party.

I n d e x

	<u>Pages.</u>
1. Complaint petition with Affidavit.	<u>1-2</u>
2. Annexure-1. A true photo copy of the income certificate.	<u>10</u>
3. Annexure-2. A true photo copy of the application form.	<u>11</u>
4. Annexure-3. A true photo copy of the Affidavit and a resignation letter.	<u>12-13</u>
5. Annexure-4. series. A true photo copy of Madhayanra Certificate, Caste Certificate and residential certificate.	<u>14-17</u>
6. Annexure-5. A true photo copy of the Voter list.	<u>18</u>
7. Annexure-6 . A true photo copy of the Nomination form .	<u>19-29</u>

Vakalatnama.

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Before,

The State Election Commission,

Bihar, Patna.

Case no. 17 of 2011.

In the matter of an application
under sections 136(1) and 136(2) of the
Bihar Panchayat Act, 2001.

And

~~Part~~ In the matter of

Dushyant Kumar, s/o late K Hriday Narayan Yadav,
resident of Gwalpara, P.S. - ^{Cenolpara} ~~Murliganj~~, District-
Madhepura.

.... Complainant.

Versus

Jaymala Devi, w/o late Bharat Yadav, present
mukhiya of Gram Panchayat Gwalpara Block, Gwalpara,
District- Madhepura Opposite party.

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The humble petition on behalf of the
complainant above named;

most Respectfully Sheweth:-

1. That this is an application by way of
complaint for making enquiry about impersonating
the name of Pramed Ranjan w/o late Bharat Yadav
as Jaynala Devi ,w/o late Bharat Yadav by the
opposite party and thereafter making electing on the
post of Mukhya of Gwalpara Gram Panchayat by
furnishing wrong information regarding her date of
birth and accordingly to take appropriate action
for declaring her to be ~~not~~ ineligible for holding
the post of Mukhya due to ^{fraud} committed
with the people.

2. That one Pramed Ranjan s/o Yogendra Prasad
Yadav resident of Gwalpara is wife of late Bharat
Yadav of Gwalpara and the said fact would be
evident from the income certificate issued by the

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Circle Officer Gwalpara on 20.2.04.

A true photo copy of the income certificate is annexed as annexure-1 to this petition.

3. That it is stated that said ~~pr~~ Prasad Ranjan filed up application form for the post of Sahayika of Gwalpara Gram Panchayat in the year 2004 mentioning her husband's name as ^{Late Bharat Yadav} ~~Prasad Ranjan~~ and also she was selected for the post of Sahayika at Navolia Angan Bari Kendra in Gwalpara Panchayat.

A true photo copy of the application form is annexed herewith and marked as annexure- 2 to this petition.

4. That Subsequently as would be evident from the affidavit and resignation letter addressed to the Sub-Divisional welfare Officer cum CDO Hdakishungarj that Prasad Ranjan w/o late Bharat Yadav, resigned from the said post of Sahayika.

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A true photo copy of the affidavit and
resignation letter is annexed as
annexure-3 to this petition.

5. That while working as Sahalyka, Pramod Ranjan
had Bank account no. 5919 in ^{Madhvi Bihari Co-operative Bank} S.B.I. Branch of Gwalpara
and in the same also her husband name was Late Bharat
Kumar Yadav.

6. That from the certificate of Madhyama
issued by the Sanskrit Siksha Board the date of birth
of Pramod Ranjan is 8.10.71 to which also she mentioned
in while making application for appointment of
Sahalyaka. The caste mark certificate and residential
certificate issued by the competent authority show that
she is resident of Gwalpara.

A true photo copy of Madhyama
certificate and residential certifi-
cate is annexure-4 series to this
petition.

7. That thus from the aforesaid documents it is quite evident that Pramod Ranjan is wife of late Bharat Yadav, however in the voter list of Gwalpara Panchayat, the name of one Jaymala devi w/o Bhagat Bharat Yadav was mentioned at Sr.No. 354 .

A true photo copy of the voter list is annexed and marked as annexure-5 to this petition.

8. That it is stated and submitted that opposite party by taking advantage of her name in the voter list with having husband name of Bharat Yadav filled up the nomination form in the name of ~~is~~ Jaymala devi and elected on the post of Mukhiya of Gwalpara Gram Panchayat.

A true photo copy of the nomination form is annexed as annexure- 6 to this petition.

9. That from perusal of Biodata of Jaymala

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Devi as part of nomination form as Sh.IV(Kha)-(Annexure-
6) it would appear that her date of birth is mentioned
to be on 1.02.71, whereas in the certificate of
Mukhiyas of Pramod Ranjan date of birth is 8.10.
71 and as such evidently Jaymala devi, w/o late Bharat
Yadav and Pramod ranjan w/o late Bharat ~~Yadav~~ order
can not be the same person rather both of them have
different identity.

10. That the records as mentioned above show
that Pramod Ranjan is wife of Bharat Yadav and not
Jaymala Devi and thereafter admittedly Jaymala devi by
impersonating the name of Pramod Ranjan filed nomination
and elected on the post of Mukhiya.

11. That it is worth mentioning here that in
Gwalpara Gram Panchayat there is no other Bharat
Yadav who is ~~the~~ and the name of his wife is
Jaymala devi .

12. That it is submitted that opposite party has notary postcard as wife of late Bharat Yadav and as such she became Mukhiya by impersonating the name of Pramod Ranjan by giving false date of birth in the nomination paper as if she is different persons and hence the opposite party is ineligible for holding the post of Mukhiya for committing fraud with the people.

13. That thus in the aforesaid facts and circumstances of the case, it is quite evident that the opposite party was elected on the post of Mukhiya in personating the name of Pramod Ranjan and by furnishing wrong date of birth and hence she is liable to be disqualified as being not eligible to hold the said post of Mukhiya of Gwalpara Gram Panchayat.

14. That the complainant after knowing the fraud committed by the opposite party has been filed the instant complaint as general public and voter of

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-8-

Gwalpara Gram Panchayat to seek appropriate relief
from the commission.

~~It is~~ It is therefore, humbly prayed that
in the interest of justice and fair play
to accept this petition as complaint issue
notice to the opposite party and after
hearing may pass the appropriate order/
orders as may deem fit and proper in the
facts and circumstances of the case
And for this the complainant shall ever pray.

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-9-

Affidavit.

I, Dusyant Kumar, aged about 30 years, s/o late Hridaya Narayan Yadav, resident of Gwalpara, P.S.-Nurliganj, District- Madhepura, do hereby solemnly affirm and state as follows:-

1. That I am complainant in this case and as such am well acquainted with the facts and circumstances of the case.

2. That the contents of this affidavit and petition have been read over and explained to me in Hindi which I have fully understood the same.

3. That the statement made in paragraph nos. _____ are true to my knowledge and those made in paragraph nos. _____

_____ are true to my information, which derived from the records of the case and rest are by way of submissions before this Hon'ble court.

4. That the annexures are photo/true copies of its respective originals.

प्रखण्ड कार्यालय, ग्वालपाड़ा

पत्रांक 2557/दिनांक 20/11/11

Ameyan 2

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प्रेषक

प्रखण्ड विकास पदाधिकारी,
ग्वालपाड़ा।

सेवा में,

जिला पंचायत राज पदाधिकारी,
मधेपुरा।

विषय:- विविध वाद संख्या 17/2011 दुष्यंत कुमार बनाम जयमाला देवी के संबंध में
जॉच प्रतिवेदन।

प्रसंग:- भवदीय पत्रांक 2057/पंचायत दिनांक 27.09.11
महाशय,

उपर्युक्त विषय एवं प्रसंग के संदर्भ में सूचित करना है कि वर्णित वाद में उठाये गये बिन्दुओं के संबंध में आवश्यक छानवीन प्रभारी प्रखण्ड पंचायत राज पदाधिकारी, ग्वालपाड़ा के साथ दिनांक 05.11.11 को दोनों पक्षों को सूचित कर किया गया।

आरोप- (1) वादी दुष्यंत कुमार का आरोप है कि पंचायत आम चुनाव 2011 में श्रीमती प्रमोद रंजन ने ग्वालपाड़ा पंचायत के मुखिया पद के लिए श्रीमती जयमाला देवी के नाम से अपना नाम निर्देशन पत्र दिया, तथा जयमाला देवी का प्रतिरूप धारण कर चुनाव में जीत हासिल की।

जॉच प्रतिवेदन:-

श्रीमती जयमाला देवी पति-स्व0 भरत यादव, ग्रा0+पो0+थाना- ग्वालपाड़ा ने वर्ष 2011 के पंचायत चुनाव में ग्वालपाड़ा पंचायत से मुखिया पद के लिए अपना नाम निर्देशन दिया था, जिसका नाम निर्देशन अनुक्रमांक 22 है।

(2) इनके नाम निर्देशन पत्र को निर्वाची पदाधिकारी ग्वालपाड़ा प्रखण्ड द्वारा स्वीकृत किया गया तथा मतदान एवं मतगणना के पश्चात् ये निर्वाचित घोषित हुई।

(3) नाम-निर्देशन पत्र में उन्होंने अपना नाम जयमाला देवी तथा पति का नाम स्व0 भरत यादव, ग्रा0+पो0+प्रखण्ड-ग्वालपाड़ा अंकित किया गया है। अभ्यर्थी के बायोडाटा में इनका जन्म तिथि 01.02.1971 अंकित है।


(4) पंचायत आम निर्वाचन नामावली 2011 के अवलोकन से स्पष्ट होता है कि प्रा0 नि0 क्षेत्र सं0.07 के क्रमांक 258 पर इनका नाम है जिसमें उम्र 40 वर्ष दर्शाया गया है।

(5) श्रीमती जयमाला देवी पति-स्व0 भरत यादव निर्वाचित मुखिया ग्वालपाड़ा पंचायत का मायके एवं ससुराल दोनों ग्वालपाड़ा में ही है। इन्होंने अपने प्रतिवेदन में स्पष्ट किया है कि ये योगेन्द्र प्र0 यादव की पुत्री है तथा इनका घरेलु नाम जयमाला एवं शैक्षणिक नाम प्रमोद रंजन है। प्रमोद रंजन पिता का नाम श्री योगेन्द्र प्र0 यादव के नाम से इन्होंने बिहार संस्कृत शिक्षा बोर्ड से माध्यमा की परीक्षा पास की है। तथा प्रमोद रंजन पति स्व0 भरत यादव के नाम से ग्राम पंचायत ग्वालपाड़ा के आंगनवाड़ी केन्द्र नवटोलिया में सहायिका के पद पर कार्यरत थी तथा वर्ष 2006 में उक्त पद से त्यागपत्र देकर मुखिया पद का चुनाव लड़ी तथा निर्वाचित हुई। पंचायत आम चुनाव 2011 के समय दुबारा चुनी गई। इन्होंने यह भी स्पष्ट किया है कि ससुराल पक्ष के लोगों ने इनका घरेलु नाम जयमाला देवी वोटर लिस्ट में लिखवा दिया, जो आज तक चला आ रहा है, तथा इसी नाम से ये दो बार चुनाव जीत चुकी है। श्रीमती जयमाला देवी के नाम से इनका भारतीय स्टेट बैंक, उदाकिशुनगंज में बचत खाता 30768367757 है। स्व0 भरत यादव की मृत्यु वाहन दुर्घटना में हुई थी। जिसके संबंध में M.A.C.T. केश न0 22/2006 दर्ज कराया गया था। जिसके वादी जयमाला देवी पति स्व0 भरत यादव है।

(88)

उपर्युक्त तथ्यों से स्पष्ट होता है कि ग्वालपाड़ा पंचायत के मुखिया श्रीमती जयमाला देवी का शैक्षणिक नाम श्रीमती प्रमोद रंजन है। इनका घरेलू नाम श्रीमती जयमाला देवी है। ससुराल के लोगों ने इनका घरेलू नाम श्रीमती जयमाला देवी निर्वाचन नामावली में दर्ज करवाया, जो अभी तक चला आ रहा है। भारत निर्वाचन आयोग द्वारा निर्गत मतदाता फोटो पहचान पत्र (Epic) संख्या MQP 3396504 जयमाला देवी पति- भरत यादव के नाम से निर्गत है। वास्तव में श्रीमती प्रमोद रंजन एवं श्रीमती जयमाला देवी दोनों एक ही व्यक्ति है। जहाँ तक जन्म तिथि में अन्तर का प्रश्न है दोनों ही जन्म तिथि को अलग-अलग आधार मानकर गणना करने पर भी ये निर्वाचन लड़ने के योग्य है। जयमाला देवी वर्ष 2006 में मुखिया निर्वाचित घोषित हुई थी, तथा वर्ष 2011 में दोबारा चुनी गई है। इस प्रकार इनके विरुद्ध Impursonating का आरोप सही प्रतीत नहीं होता है। सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

विश्वासभाजन


प्रखण्ड विकास पदाधिकारी
10.11.2011 ग्वालपाड़ा।

Annexure 6

(29)

समाहरणालय, मधेपुरा
पत्रांक-03/ग
अपरा समाहर्ता, मधेपुरा।

सेवा में,

जला दंडाधिकारी-सह-जिला निर्वाचन पदाधिकारी (प०)

मधेपुरा-12वीं जनवरी 2012 ई०

विषय:-निर्वाचन आयोग बिहार, पटना के विवध वाद सं०-17/2010 दुष्यंत कुमार बनाम जयमाला देवी से संबंधित जांच प्रतिवेदन का प्रेषण।

प्रसंग:-भवदीय पत्रांक-2284/प० दिनांक-10.12.2011

महाशय,

उपर्युक्त विषय से संबंधित भवदीय प्रसंगाधीन पत्र के आलोक में निर्वाचन आयोग, बिहार, पटना के विवध वाद सं०-17/2010 दुष्यंत कुमार बनाम जयमाला देवी से संबंधित मामले की अधोहस्ताक्षरी द्वारा जांच के क्रम में निम्न स्थिति पायी गई।

उक्त वाद में स्थलीय जांच के पूर्व अधोहस्ताक्षरी द्वारा ज्ञापांक-97/ग दिनांक-12.12.11 द्वारा उभयपक्षों को नोटिस देते हुए साक्ष्य की मांग की गई। उक्त के आलोक में निर्धारित तिथि को उभयपक्ष अपने विद्वान अधिवक्ता के माध्यम से उपस्थित हुए। उभयपक्षों के विद्वान अधिवक्ता को सुना।

प्रथम पक्ष द्वारा बताया गया कि श्रीमती प्रमोद रंजन एवं जयमाला देवी दोनों अलग-अलग व्यक्ति हैं। यदि श्रीमती प्रमोद रंजन ने ही माला देवी का रूप धारण कर वर्ष 2006 एवं 2011 में मुखिया पद से चुनाव लड़ी तथा विजयी हुई इसके पूर्व श्रीमती प्रमोद रंजन के नाम से आंगनवाड़ी सहायिका के नाम से ही कार्यरत रही है।

द्वितीय पक्ष का कहना है कि श्रीमती प्रमोद रंजन एवं श्रीमती जयमाला देवी एक ही व्यक्ति हैं। प्रमोद रंजन शैक्षणिक नाम है तथा जयमाला घरेलू एवं पुकारू नाम है। उनके द्वारा यह भी बताया गया कि प्रतिवादी का ससुराल एवं मायका दोनों ही ग्वालपाड़ा में ही है जिस कारण घरेलू एवं पुकारू नाम से अधिक प्रवाहित रही है। उनके द्वारा यह भी स्वीकार किया गया कि प्रमोद रंजन के नाम से वे आंगनवाड़ी सहायिका के रूप में कार्यरत रही है। वर्ष 1992, 2004 एवं 2011 के मतदाता सूची में जयमाला देवी अंकित रहने के कारण उन्हें पंचायत चुनाव लड़ने में जयमाला देवी के नाम से ही चुनाव लड़ी। प्रतिवादी का आगे यह भी कहना है कि इस आशय का शपथ-पत्र वर्ष 2006 के पंचायत निर्वाचन के समय नाम निर्देशन पत्र दाखिल करने के समय ही दाखिल कर चुकी है कि अब वे प्रमोद रंजन का नाम व्यवहार न कर सिर्फ जयमाला देवी के नाम का ही प्रयोग करेगी।

प्रथम पक्ष (दुष्यंत कुमार) द्वारा कोई साक्ष्य अथवा कोई कागजात प्रस्तुत नहीं किया गया। द्वितीय पक्ष जयमाला देवी की ओर से साक्ष्य के रूप में निम्नलिखित कागजात समर्पित किये गये।

1. वर्ष 1992 के मतदाता सूची की छायाप्रति।
2. वर्ष 2004 के मतदाता सूची की छायाप्रति।
3. वर्ष 2011 के मतदाता सूची की छायाप्रति।
4. दिनांक-17.06.2006 को दाखिल शपथ-पत्र की छायाप्रति, एम०ए०सी०टी० नं०-22006 जयमाला देवी बनाम हिमांशु शेखर सिंह न्यायालय श्रीमान जिला जय न्यायालय में दाखिल अर्जी की छायाप्रति।
5. भारतीय स्टेट बैंक, उदाकिशुनगंज के खाता सं०-30768367757 का पासबुक की छायाप्रति।
6. जयमाला देवी द्वारा निबंधित दस्तावेज सं०-5409 दिनांक-08.10.2010 की छायाप्रति।
7. ईपिक सं०-एम०क्यू०पी० 3396504 की छायाप्रति।
8. वर्ष 2006 के नामंकन पत्र के व्जाप्ता नकल की छायाप्रति।

9. वर्ष 2006 के त्रिस्तरीय चुनाव में मुखिया पद से विजय होने संबंधी प्रमाण-पत्र की छायाप्रति।

10. वर्ष 2006 के पंचायत निर्वाचन संबंधी अभ्यर्थी पहचान पत्र की छायाप्रति।
सुनवाई के दौरान प्रतिवादी के अधिवक्ता द्वारा यह जानकारी दी गई कि श्रीमती जयमाला देवी जिनका शैक्षणिक नाम प्रमोद रंजन है, वे लक्ष्मी नारायण बाबा सिधेश्वर संस्कृत विद्यालय, लौहर, ग्वालपाड़ा में पढ़ी तथा वहीं से मध्यमा परीक्षा उत्तीर्ण हुई है। सुनवाई के दौरान प्रतिवादी से मध्यमा परीक्षा का एडमिट कार्ड की, उत्तीर्ण प्रमाण-पत्र की मांग किये जाने पर विद्वान अधिवक्ता द्वारा इस जिला वर्ष 2008 में आई प्रलयकारी बाढ़ में नष्ट हो जाने की बात बताते हुए उक्त कागजात समर्पित करने में असमर्थता जतायी गयी।

अधोहस्ताक्षरी को यह शंक हुई कि कहीं जयमाला देवी द्वारा प्रमोद रंजन के मध्यमा प्रमाण-पत्र को जालसाजी कर सहायिका पद पर चयनित हो गई हो, अधोहस्ताक्षरी द्वारा इसकी पुष्टि हेतु लक्ष्मी नारायण बाबा सिधेश्वर संस्कृत उच्च विद्यालय ग्वालपाड़ा का स्थलीय जांच भी किया गया। जांच के क्रम में उक्त विद्यालय दाखिल पंजी एवं स्थानान्तरण प्रमाण-पत्र के कार्यालय प्रति का अवलोकन किया गया। दाखिल पंजी में प्रमोद रंजन नाम दर्ज है तथा निर्गत स्थानान्तरण प्रमाण-पत्र के कार्यालय प्रति पीठ पर श्रीमती प्रमोद रंजन स्व० पति भरत यादव का पावतीय हस्ताक्षर अंकित है। जांच के क्रम में उक्त विद्यालय प्रभारी प्रधानाचार्य श्री महानन्द झा से पूछताछ की गई। पूछताछ के क्रम में श्री झा द्वारा अपने लिखित बयान के माध्यम से बताया गया कि वर्ष 1990 में वे उक्त विद्यालय के प्रभारी प्राचार्य थे। जयमाला देवी का उस समय प्रमोद रंजन पिता योगेन्द्र प्रसाद यादव, ग्वालपाड़ा का निबंधन उक्त विद्यालय से हुआ था तथा इसी विद्यालय से मध्यमा परीक्षा भी दी थी और उत्तीर्ण भी हुई। श्री झा द्वारा यह भी बताया कि वे उन्हें व्यक्तिगत रूप से जानते हैं, जयमाला देवी ही प्रमोद रंजन के नाम से फार्म भरी थी। उक्त स्थल जांच के समय उपस्थित श्री संतोष कुमार झा पिता चन्द्रभूषण झा सा०-ग्वालपाड़ा, श्री कृष्ण कुमार यादव, पिता स्व० शालीग्राम यादव उम्र करीब 60 वर्ष सा० ग्वालपाड़ा उप सरपंच ब्रम्हानन्द झा पिता स्व० राजेश्वर झा सा० लौहर, मदन मोहन झा पिता स्व गुणानन्द झा, सा० लौहड़, जर्नादन झा पिता स्व० महावीर झा उम्र करीब 72 वर्ष सा० लौहड़ आदि द्वारा बताया गया कि जयमाला देवी को वे उनको बचपन से जानते हैं, जयमाला देवी एवं प्रमोद रंजन एक ही व्यक्ति है।

उक्त विद्यालय के अभिलेख में फोटोयुक्त कोई भी अभिलेख उपलब्ध नहीं रहने के कारण जयमाला देवी प्रमोदरंजन दोनों एक हैं अथवा अलग-अलग व्यक्ति हैं इनकी पुष्टि नहीं हो पाई। अगर ये मान भी ली जाय कि प्रमोद रंजन एवं जयमाला देवी एक ही व्यक्ति है, फिर भी यह स्पष्ट है कि नाम परिवर्तन करने में उनके द्वारा विधिवत प्रक्रिया नहीं अपनाई गई है।

सूचनार्थ समर्पित।

विश्वासभाजन

अपर समाहर्ता