

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12818 of 2025

Puja Kumari Daughter of Mithlesh Yadav, Resident of Ward No.8,
Chakhussain, Khusrupur, District- Patna, Bihar- 803202.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna-800001.
2. The State Election Commission, Bihar through Election Commissioner, Bihar, Sone Bhawan, Beerchand Patel Path, Patna.
3. The District Magistrate, Patna.
4. The Sub-Divisional Officer, Patna City, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Apurv Harsh, Advocate Mr. Manu Tripurari, Advocate Mr. Sujit Kumar, Advocate Mr. Raghu Raj Pratap, Advocate Ms. Jaya Singh, Advocate Ms. Aditi Sahay, Advocate Mr. Pransho Prakash, Advocate Mr. Hritik, Advocate
For the State	:	Mr. Subhash Pd. Singh (GA-3) Mr. Indeshwari Pd (AC to GA-3)
For Election Commission	:	Mr. Ravi Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 18-08-2025

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the State Election Commission.

2. The present writ petition has been filed for the following relief/s:-



“I. Issuance of appropriate writ/writs or order/orders or direction/directions directing Respondents to conduct a comprehensive examination and inquiry into duplicate and cross-Panchayat voting in the election held on 28.06.2025 in Nagar Panchayat, Khusropur, Patna;

II. Issuance of appropriate writ/writs or order/orders or direction/directions directing stay the final certification of the election result for the post of Chairperson, Nagar Panchayat, Khusropur, till such time as illegal votes are identified and excluded from final tally;

III. Issuance of appropriate writ/writs or order/orders or direction/directions directing direct the cancellation of all votes cast through dual voting (e-voting and offline) by the same individuals, and declare the election null and void if such cancellation materially affects the outcome;

IV. Issuance of appropriate writ/writs or order/orders or direction/directions directing disciplinary and penal proceedings against election officials and others under Section 171 of the BNS, 2023 and Bihar Panchayat Election Rules, 2025 (amended);

V. Pass any other order or direction that this Hon'ble Court may deem fit and proper



in the facts and circumstances of this case.”

3. Learned counsel for the petitioner submits that in the present matter, the petitioner has participated in the election process for election of Chief Councillor/Chairman in the Khusropur Nagar Panchayat held on 28.06.2025 conducted under the aegis of respondent authorities. Counsel submits that the guideline has been issued under which the voting has to be accepted through e-voting also. Counsel submits that the procedure which has been adopted by the Election Commission resulted into duplicacy of voting. He specifically submits that one name of one voter has entered in the offline as well as in the online mode and doubling of the counting of voting took place. It is due to this reason, the other candidate has been selected and the petitioner could not be selected. Counsel submits that he is relying on his pleading particularly paragraph nos.17 and 18 in which he has submitted a tabular list of such duplicate voters and submits that the representation has been made to the CEO, DM and SDO showing the EPIC number that name of those candidates have duplicated in the election process. Counsel has categorically indicated in paragraph no.18 that duplicate voting through two modes took place and the duplicate voting was allowed in two distinct panchayat jurisdictions maintaining two



EPIC numbers or slightly varied names under the same family lineage.

4. Learned counsel for the petitioner further submits that in case of ***Kishansing Tomar Vs. Municipal Corporation of Ahmedabad & Ors.*** reported in ***(2006) 8 SCC 352***, State Election Commission must ensure free and fair elections. Counsel submits that the Election Commission has failed to synchronise e-voting records with physical polling list and in this way, the violation of the mandate took place. Counsel has further relied on another judgment in case of ***Mohinder Singh Gill & Anr. Vs. Chief Election Commissioner & Ors.*** reported in ***AIR 1978 SC 851*** in which the ratio has been decided that the electoral fairness is a fundamental feature of democracy, and its subversion warrants judicial scrutiny.

5. Learned counsel appearing for State Election Commission submits that the present matter is relating to election of municipality which is dealt under the Constitution of India by virtue of Constitutional 47th amendment, 1992. He submits that the municipality has been added in Part IXA of the Constitution of India and Article 243ZG of the Constitution of India categorically deals with “Bar to interference by courts in electoral matters”. Counsel submits that sub-section (b) of



Article 243ZG states that “*no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.*” Counsel further put emphasis on the Bihar Municipal Act, 2007 (Act no.11 of 2007) published in the Bihar Gazette (Ext. Ord.) dated 05.04.2007. Counsel further put emphasis on section 478 of the Bihar Municipal Act, 2007 and submits that section 478(b) basically adopted the constitutional norm laid down under Article 243ZG of the Constitution of India that no election to any Municipality shall be called in question except by an election petition presented to the Prescribed Authority under this Act. Counsel submits that the specific remedy available to the petitioner is under Section 479 (1)(d)(iii) of the Bihar Municipal Act, 2007 which deals with grounds for declaring election to be void under which, the improper reception, refusal or rejection of any vote or reception of any vote which is void has to be taken into consideration.

6. Learned counsel for the petitioner in response thereof submits that by virtue of filing the present writ petition, the petitioner has challenged the procedure which has been conducted by the Election Commission during municipal



election.

7. Upon the specific query of the Court to the counsel for the petitioner that in case, writ petition shall be allowed in favour of the petitioner then whether the person who has been elected shall be affected or not? Counsel for the petitioner submits that yes it is true that if, writ petition shall be allowed then the elected candidate shall be affected.

8. Upon perusal of the array of parties in the main writ petition, it transpires to this Court that the elected candidate has not been made party to the present writ petition.

9. After hearing the parties and perusal of the documents, it appears to this Court that there is one legal question which has to be decided by this Court for resolving the present dispute that:-

“I. Whether the Court in the Writ jurisdiction should interfere in the process of election which was alleged to be taken with procedural irregularity and result has been published or not and even after publication of result, any remedy left to the petitioner?”

10. With a view to decide this question, it is necessary to quote the correct position of law. Admittedly, it is



the municipal election which is covered under Part IXA of the Constitution of India and specific provision under the Constitution is Article 243ZG of the Constitution of India which states as follows:-

“243ZG. Bar to interference by courts in electoral matters. Notwithstanding anything in this Constitution,-

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.”

11. It is also relevant to quote sections 476 & 478 of the Bihar Municipal Act, 2007 (Act no.11 of 2007) which states as follows:-

“476. Election Petition.-(1) The election to any office of a Municipality shall not be called in question except by an election petition as prescribed:



Provided that if an election to any office of a Nagar Panchayatis under dispute, the election petition shall lie before such Munsif within whose jurisdiction such Nagar Panchyat is situated and if the election to any office of Municipal Council and Municipal Corporation is under dispute, the election petition shall lie before such sub-Judge within whose jurisdiction such Municipality is situated.

(2) Parties to the petition-A petitioner shall join as a respondent to his petition-

a) Where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidates had been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

478. Bar to interference by Courts in electoral matters. *Notwithstanding anything contained in this Act-*

(a) The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies,



made or purporting to be made under Article 243 ZA of the Constitution of India shall not be called in question in any Court; (b) no election to any Municipality shall be called in question except by an election petition presented to the Prescribed Authority under this Act.”

12. Upon bare perusal of the aforesaid provisions of law, this Court is very much clear that to deal such a situation particularly relating to counting of votes, the specific provision has already laid down under Section 479 of the Bihar Municipal Act, 2007 which states as follows:-

“479. Grounds for declaring election to be void.-(1) Subject to the provisions of sub Section (2) if the Prescribed Authority is of opinion-

(a) that on the date of his election, a returned candidate was not qualified or was disqualified, to be chosen as a member under this Act; or

(b) that any corrupt practice has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidate or his agent; or

(c) that any nomination paper has been improperly rejected; or



(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected-

(i) by the improper acceptance of any nomination; or

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent; or

(iii) by the improper reception, refusal or rejection of any vote or reception of any vote which is void; or

(iv) by any non-compliance with the provisions of this Act or of any Rules or orders made thereunder, the Prescribed Authority shall declare the election of the returned candidate to be void.

(2) If in the opinion of the Prescribed Authority, any agent of a returned candidate has been guilty of any corrupt practice, but the Prescribed Authority is satisfied-

(a) that no such corrupt practice was committed at the election by the candidate and every such corrupt practice was committed contrary to the orders and without the consent of the candidate;

(b) that the candidate took all reasonable measures for preventing the commission of corrupt practices at the election; and

(c) that in all other respects the election



was free from any corrupt practice on the part of the candidate or any of his agent; then the Prescribed Authority may decide that the election of the returned candidate is not void.”

13. From the bare reading of those aforesaid specific provisions, it transpires to this Court that the law makers have made specific provision for filing election petition before the appropriate forum under section 476 of the Bihar Municipal Act, 2007 in which ground of challenge has been mentioned in section 479 and the question which petitioner has raised in paragraph nos.17 & 18 in his writ petition, well covered under the provision of section 479 (1)(d)(iii) of the Bihar Municipal Act, 2007 and particularly when the winner has not been added as party in the present case.

14. As such, this Court is not inclined to interfere in this matter and is of the firm view that in the light of the constitutional mandate as well as in the light of specific law of the Bihar Municipal Act, 2007, the petitioner has specific remedy to challenge the said election in the election petition under section 476 of the Bihar Municipal Act, 2007. Hence, this writ petition stands dismissed.

15. It is made clear that in case, petitioner



challenges and files the election petition within 30 days from today, then in that case, the appropriate forum under section 476 of the Bihar Municipal Act, 2007 (Act no.11 of 2007) shall pass order considering the matter within one year.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	20/08/2025
Transmission Date	NA

