

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18437 of 2024

Grijesh Kumar Sharma Son of Dhanai Sharma, Resident of village and P.O. Bagahi, P.S. Kateyan District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The District Magistrate -cum-District Election Officer (Panchayat), Gopalganj, District - Gopalganj.
4. The District Panchayat Raj Officer, Gopalganj, District- Gopalganj.
5. The Block Development Officer, Kateya, District- Gopalganj.
6. Punam Sharma wife of Sanjay Sharma Resident of village and P.O. Bagahi, P.S. Kateyan, District - Gopalganj.
7. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
8. The State Election Commissioner, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
9. The Officer on Special Duty, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
Mr. Awnish Kumar, Advocate
Mr. Kumar Gaurav, Advocate
Mr. Vikas Kumar Singh, Advocate

For the Respondent/s : Mr. Ajay Kumar, A.C. to G.P.-4
For Election Commission : Mr. Ravi Ranjan, Advocate
For respondent No.6 : Mr. Dhaneshwar Pd. Gupta, Advocate

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
CAV JUDGMENT

Date : 04-07-2025

1) Heard the parties.

2) The petitioner in the present writ application has

prayed for grant of following reliefs :-

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 14.10.2024 passed by the Respondent no.8 and contained in his memo no.3817dated



14.10.2024 whereby and where under, exercising his power under Section 136 (2) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the Gram Panchayat Act), the Respondent no.8 has been pleased to declare the petitioner disqualified to hold the post of municipality of Gram Panchayat Raj, Ramdas Bagahi under Kateya Block of Gopalganj District on the ground that according to petitioner's date of birth mentioned in his matriculation certificate and the marks-sheet produced by the petitioner, his date of birth is 01.06.2001 and therefore, on the date of scrutiny of nomination paper on 03.10.2021, the petitioner was aged about 20 years 4 months and 02 days notwithstanding that for the purposes of ascertainment of petitioner's age, the petitioner was referred to a Medical Board and the Medical Board has assessed his age to be more than 25 years.

(II) For a declaration that if there are other various documents in connection with the age of the petitioner like Adhar Card, PAN card, Passport etc., according to which, the petitioner was born in 1981 i.e. 01.06.1981 and to resolve the controversy, he was referred to Medical Board and Medical Board has assessed the petitioner's age to be more than 25 years on the date when he was examined by the Medical Board, the Respondent no.8 was not justified to declare the petitioner disqualified to hold the post of Mukhiya even if according to the entry made in the matriculation certificate he was under age on the date of scrutiny of nomination paper i.e. 03.10.2021.

(III) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for reinstatement of the petitioner to the post which he was holding on or before the passing of impugned order by the Respondent no.8 and communicated by the Respondent no.9 on 14.10.2024.

(IV) For issuance of any other appropriate writ/writs, order/ orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3) Learned counsel appearing for the petitioner submits that the State Election Commission had notified Panchayat Election, 2021 in Gram Panchayat Raj, Ramdas Bagahi in which the petitioner, respondent No.6 and many other candidates had filed their nomination to contest for the post of Mukhiya of the said Gram Panchayat. The



petitioner and the respondent No.6 Smt. Punam Sharma are co-villagers and known to each other but on the date of scrutiny of nomination paper, i.e., 03.10.2021, no objection was raised by the respondent No.6 against the validity of petitioner's nomination on any ground whatsoever including his age to contest the election. It is further stated that the petitioner, the respondent No.6, Smt. Punam Sharma and many other candidates contested the election and ultimately after counting of votes, the petitioner was declared elected for the post of Mukhiya of Gram Panchayat Raj, Ramdas Bagahi.

4) It is further submitted by learned counsel for the petitioner that after the declaration of result in favour of the petitioner by the Returning Officer, a complaint under Section 136(2) of the Panchayat Raj Act, 2006 was filed by the respondent No.6, Smt. Poonam Sharma before the respondent No.8, i.e., State Election Commissioner, wherein a prayer was made to declare the petitioner disqualified to hold the post of Mukhiya of the said Gram Panchayat on the ground that his date of birth as per matriculation certificate was 01.06.2001, and therefore, on the date of scrutiny of nomination paper, i.e, 03.10.2021,



the petitioner was less than 21 years of age, which as per respondent No.6, was a pre-condition to contest the Panchayat election, in view of the provision contained under Section 136 (1) (b) of the Panchayat Raj Act, 2006. For ready reference Section 136(1)(b) of Bihar Panchayat Raj Act, 2006 is quoted hereinbelow for needful :-

“136. Disqualification for Membership.

(1)Notwithstanding anything contained in this Act, a person shall be disqualified for election or after election for holding the post as Mukhiya, member of the Gram Panchayat, Sarpanch, Panch of the Gram Katchahri, member of the Panchayat Samiti and member of Zila Parishad, if such person-

(b)is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State. Provided that no person shall be disqualified on the ground that he is less than twenty five years of age, if he has attained the age of twenty one years;

[Emphasis Supplied]

- 5) Learned counsel for the petitioner further submits that after service of notice, the petitioner appeared before the respondent No.8, i.e., the State Election Commission and filed his counter affidavit/written statement. As per the petitioner, the petitioner himself had brought on record the matriculation certificate according to which the petitioner's date of birth was 01.06.2001, however, along with his counter affidavit, the petitioner had also placed on record many other



records, such as his passport, his driving license, his election photo identity card, his affidavit sworn before Notary Public and his application to the Principal, Higher Secondary School, Dimapur, Gopalganj, requesting therein to correct his date of birth in his matriculation certificate. All these additional documents were brought before the respondent No.8 to prove that the petitioner's date of birth is actually 01.06.1981 and not 01.06.2001. The counsel for the petitioner further submits that after filing of the counter affidavit before the respondent-Commission, the petitioner had also produced his Aadhar Card, Pan Card, Ration Card, Voter list etc to establish that his date of birth was 01.06.1981. Learned counsel for the petitioner also submits that on his request, the respondent-Commission had granted liberty to the petitioner to get his age assessed by the Medical Board and in pursuance thereto, the petitioner was requested before the Medical Board of Sri Krishna Medical College and Hospital, Muzaffarpur. The petitioner appeared before the Medical Board on 30.09.2023 for assessment of his age and after analysis, the Medical Board recorded its finding that the petitioner was more than 25 years of age. The said report of the Medical Board has been annexed with the writ application as Annexure P-4. Subsequently, by letter No. 1336 dated 07.10.2023, the Chairman and member of Medical Board are



also said to have informed Principal, S.K.M.C.H., that in their opinion, the petitioner was more than 25 years of age.

- 6) Learned counsel for the petitioner further submits that the respondent-Commission was also pleased to call for a report from the District Magistrate-cum-District Election Officer vide its order dated 19.12.2023, 29.04.2024. In compliance thereof, the District Panchayat Raj Officer, Gopalganj submitted his report and all relevant document for consideration by the respondent-Commission vide his letter No.920 dated 14.05.2024 (Annexure P/5). In this report, as per the learned counsel for the petitioner, the District Panchayat Raj Officer had mentioned about the birth certificates of three daughters namely, Lavli Sharma, Ragini Sharma, and Rauli Sharma and one son, Aayush Sharma, according to which first daughter, Lavli Sharma was born to the petitioner on 24.4.2013 and, therefore, in no case it can be accepted that the petitioner was born in 2001.
- 7) It is further submitted that in support of the case as alleged in the complaint, respondent No.6, Smt. Poonam Sharma only relied upon the matriculation certificate of Bihar School Examination Board in which the date of birth was mentioned as 01.06.2001.
- 8) The learned counsel for the petitioner further states and submits that despite there being overwhelming evidence, such as passport, driving license, Election photo I.D. Card, his affidavit sworn before



Notary Public, Aadhar Card, Pan Card, ration card, voter list, etc. which clearly established the fact that the petitioner was born on 01.06.1981, the respondent-Commission has illegally only relied upon the matriculation certificate of the petitioner for determining his date of birth to be 01.06.2001 and simply on that basis, the respondent-Commission has held that on the date of scrutiny, i.e., 03.10.2021, the petitioner was less than 21 years of age and hence stood disqualified under Section 136(1)(b) of the Bihar Panchayat Raj Act, 2006. In this regard, final order was passed by the respondent-Commission which is contained in Memo No.3817 dated 14.10.2024 (AnnexureP/8) which has been assailed by the petitioner in the present writ application as being incorrect and contrary to law.

- 9) During the course of argument, the learned counsel for the petitioner emphatically submitted that the matriculation certificate of the petitioner showing his date of birth to be 01.06.2001, could not have been relied upon by the respondent-Commission as unimpeachable material for disqualifying the petitioner from the post of Mukhiya of Gram Panchayat, Ramdas Bagahi in terms of Section 136(1)(b) of Gram Panchayat Raj Act, 2006 and, therefore, the respondent-Commission by doing so has acted contrary to the law laid down by the Full Bench of this Court in the case of **Rajni Kumari Vs. State Election Commission** reported in **2019 (4) PLJR 673**. The



petitioner particularly relied upon paragraph 184 of this Judgment which is quoted hereinbelow for needful :- .

“184. We are in agreement that the State Election Commission has got power under sub-section (2) of Section 18 of the Bihar Municipal Act, 2007 and sub-section (2) of Section 136 of the Bihar Panchayat Raj Act, 2006 to consider an issue of pre or post-election disqualification of a candidate subject to a caution which we have pointed out in our judgments in respect of a case which is in the nature of a purely election dispute and then a matter which cannot be decided without adducement of evidence by a competent court and authority in accordance with law. The State Election Commission shall entertain and consider the 'disqualification' issues on the basis of the unimpeachable materials placed before him. Whether a complaint brought before the Commission either suo-moto or by any other person, the Commission shall at the first instance enquire whether it is a purely election dispute and only when it is found that the dispute brought before it is not a purely election dispute, the Commission shall proceed to consider the same on the basis of unimpeachable materials. Whenever a disputed question of facts and a contentious issue is brought before the Commission as a ground and basis to render a candidate disqualified, the Commission would be required to relegate the parties to a competent court/tribunal or a fact finding body competent to decide such contentious issues after taking evidences and till such time the Commission shall not take a decision on such complaint either suo-moto or otherwise.

[Emphasis Supplied]

- 10) Per contra, the respondent-Commission has defended this order dated 14.10.2024 contained in Memo No.3817 by submitting that by now it is well settled that for determining correct date of birth, the matriculation certificate is the most credible and unimpeachable



document and hence it has been rightly considered by the respondent-Commission for holding that on the date of scrutiny, the petitioner was below 21 years of age. The learned counsel appearing for respondent-Commission has also submitted that all other documents submitted by the petitioner before the respondent-Commission, such as passport, driving license, Pan card, Aadhar card, voter I.D. card etc are not credible piece of material / evidence for ascertaining the correct date of birth of any person and hence the respondent-Commission has rightly discarded these documents and only relied upon the matriculation certificate of the petitioner, the veracity and genuineness of which was never disputed by the petitioner and the said matriculation certification shows the date of birth of the petitioner to be 01.06.2001. Learned counsel appearing for the respondent-Commission has also defended the reliance placed by the respondent-Commission on the judgment of this Court delivered in the case of **Mamta Kumari sV. State of Bihar and others** reported in **2022 (3) PLJR 814** wherein this Hon'ble Court has been pleased to uphold the unimpeachable character of matriculation certificate for the purpose of determining the correct date of birth. This Judgment was also challenged before the Hon'ble Supreme Court vide SLP No.17981 of 2022 but the same was dismissed. Reliance was also placed on the decision of the Hon'ble Apex Court dated 05.08.2011 in Cr. Appeal No.1531 of 2024 in the



case of **Shahnawaj Vs. State of U.P. and Others** wherein while laying down the guideline for determination of age of a child or juvenile in conflict with law, it was held that only in absence of matriculation or equivalent certificate, the other evidences would be considered. As per the respondent-Commission, this shows that the matriculation certificate is the most sacrosanct and unimpeachable document for correct determination of age of any person. Therefore, the respondent-Commission has rightly relied upon the matriculation certificate of the petitioner which shows his date of birth to be 01.06.2001. It was reiterated that the genuineness or veracity or authenticity of the said certificate was never questioned by the petitioner.

- 11) Learned counsel appearing for respondent No.6 has also defended the order dated 14.10.2024 passed by the respondent-Commission and has adopted the argument advanced by learned counsel appearing for respondent-Commission.
- 12) The issue whether matriculation certificate is the most credible piece of document for determining the date of birth of any person in contradistinction to other documents, such as voter I.D. Card, Aadhar card, Pan card, driving license etc. is no longer res integra. In the case of **Mamta Kumari Vs. the State of Bihar** reported in **2022 (3) PLJR 814** this is exactly the issue which was decided and after elaborate



discussion. Finally in paragraph 29 of this Judgment, it has been held as follows :-

“29. The SEC has relied on Division Bench Decision of this Court in case of Annu Kumari@ Annu Sharma(supra) while accepting entry of Date of Birth in the matriculation certificate. The said view of SEC, in our opinion cannot be said to be erroneous in the facts and circumstances as discussed above. The impugned order, in our opinion does not require interference by this court.

13) In the following case, the Hon’ble Rajasthan High Court has also held the same view :-

Jagdish Prasad Vs. Arvind Kumar and others reported in 2024

SCC Online Raj 3368 at paragraph 21, 22 and 23 as follows :-

“21. In the case of Ashwani Kumar Saxena v. State of M.P., (2012) 9 SCC 750, it has been held by the Apex Court that the matriculation certificate issued by the Central Board of Secondary Education (for short 'CBSE') would be given precedence over any other evidence of the date of birth.

22. Similarly in the case of Parg Bhati v. State of U.P. (2016) 12 SCC 744, it has been held by the Apex Court that if the matriculation certificate is available and there is no other material to prove the correctness of date of birth, the date of birth mentioned in the matriculation certificate has to be treated as conclusive proof of date of birth. It has been held in para 36 as under:-

"36. It is settled position of law that if the matriculation or equivalent certificates are available and there is no other material to prove the correctness of date of birth, the date of birth mentioned in the matriculation certificate has to be treated as a conclusive



proof of the date of birth of the accused. However, if there is any doubt or a contradictory stand is being taken by the accused which raises a doubt on the correctness of the date of birth then as laid down by this Court in Abuzar Hossain, an enquiry for determination of the age of the accused is permissible which has been done in the present case."

23. The matriculation certificate is a public document and the same is credible and authentic, as per the provisions of Section 35 of the Evidence Act, as has been held by the Hon'ble Apex Court in the case of Rishipal Singh Solanki v. State of UP, (2022) 8 SCC 602 in para 33.9 and 33.10, which read as under:-

(33.9) That when the determination of age is on the basis of evidence such as school records, it is necessary that the same would have to be considered as per Section 35 of the Indian Evidence Act, inasmuch as any public or official document maintained in the discharge of official duty would have greater credibility than private documents.

(33.10) Any document which is in consonance with public documents, such as matriculation certificate, could be accepted by the Court or the JJ Board provided such public document is credible and authentic as per the provisions of the Indian Evidence Act viz.. section 35 and other provisions.

- 14) In **Rajni Kumari's Case (Supra)** also it has been held that the State Election Commission shall entertain and consider the disqualification issues on the basis of the unimpeachable materials placed before him. In the present case, the respondent-Commission has rightly decided the issue of disqualification on the basis of unimpeachable material, i.e., matriculation certification of the petitioner in which his date of birth



has been recorded as 01.06.2001. The veracity, genuineness and / or the authenticity of the matriculation certificate was never questioned by the petitioner. In fact, before the respondent-Commission, the petitioner did not even question the unimpeachable character of the matriculation certificate which showed his date of birth to be 01.06.2001. Without questioning its unimpeachable character, it is for the first time in writ jurisdiction that the petitioner is trying to create this issue which cannot be permitted.

- 15) The following finding given in the impugned order dated 14.10.2024 (Annexure P8) clearly outlines the basis for arriving at the conclusion, which in my humble view is the right conclusion which has been reached at by the respondent-Commission :-

उक्त वर्णित स्थिति में विचाराधीन वाद में आयोग माननीय उच्चतम न्यायालय, नई दिल्ली एवं माननीय उच्च न्यायालय, पटना द्वारा दिये गये विभिन्न न्याय-निर्णयों के आधार पर मैट्रिक में अंकित जन्मतिथि को निरर्हता हेतु आधार मानने के लिए बाध्य है, क्योंकि C.W.J.C. No.-6191/2022, ममता कुमार बनाम् राज्य सरकार एवं अन्य मामले में आयोग द्वारा प्रतिवादी के विभिन्न दस्तावेजों/अभिलेखों पर मैट्रिक के प्रमाण पत्रों में अंकित जन्मतिथि को वरीयता दिये जाने को चुनौती दी गयी थी, जिसमें माननीय उच्च न्यायालय, पटना के द्विसदस्यीय पीठ के निर्णय को माननीय उच्चतम न्यायालय, नई दिल्ली में S.L.P. No.-17981/2022 द्वारा चुनौती दी गयी थी, परन्तु माननीय न्यायालय द्वारा उक्त चुनौती को खारिज कर दिया गया था।

आयु निर्धारण के संबंध में माननीय उच्चतम न्यायालय द्वारा दिनांक -05.08.2011 को भाहनवाज बनाम् उत्तर प्रदेश सरकार एवं अन्य में Criminal Appeal No. 1531/2011 में जो न्यायादेश पारित किया गया है, जिसमें किसी व्यक्ति के आयु निर्धारण हेतु विहित प्रक्रिया/मार्गदर्शन अंकित है, जो निम्नवत है:-

(3) In Every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the



Board or, as the case may be, the Committee by seeking evidence by obtaining-

- (a) (i) The matriculation or equivalent certificates, if available; and in the absence whereof,**
- (ii) The date of birth certificate from the school (other than a play school) first attended, and in the absence whereof;**
- (iii) The birth certificate given by a corporation or a municipal authority or a panchayat,**
- (b) And only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child in case exact assessment or the age cannot be done, the court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year. And, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be record a finding in respect or his age and either of the evidence specified in any of the clauses (a) (i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile and conflict with law.**

उक्त न्याय-निर्णय यद्यपि Juvenile Justice Act के तहत आने वाले वादों पर लागू होता है तथापि True Spirit में जहाँ आयु के भिन्न-भिन्न प्रमाण उपलब्ध हो, वहाँ अन्य मामलों में भी यह न्याय-निर्णय साक्ष्यों के वरीयता निर्धारण में मार्गदर्शन उपलब्ध कराता है। यह स्पष्ट करना है कि आयोग का निर्णय माननीय उच्चतम न्यायालय के इस न्याय-निर्णय पर आधारित नहीं है, बल्कि आयोग के निर्णय का आधार S.L.P. No.-17981/2022 में माननीय उच्चतम न्यायालय, नई दिल्ली द्वारा दिया गया न्याय-निर्णय है, क्योंकि आयोग के समक्ष प्रतिवादी का Matriculation का प्रमाण-पत्र Unimpeachable साक्ष्य के रूप में उपलब्ध है।



उक्त विवेचना के उपरांत आयोग का मत है कि मैट्रिक के अंक-पत्र/प्रमाण-पत्र पर अंकित जन्मतिथि निर्विवाद साक्ष्य (Unimpeachable Evidence) है, जिसकी सम्पुष्टि C.W.J.C. No.-6191/2022, ममता कुमार बनाम् राज्य सरकार एवं अन्य मामले में माननीय उच्च न्यायालय, पटना के Division Bench द्वारा दिनांक-10.08.2022 को पारित न्याय निर्णय से भी होती है।

(क) इस प्रकार उपयुक्त सभी स्थिति से स्पष्ट है कि श्री ग्रिजेश कुमार भार्मा उर्फ ग्रिजेश भार्मा के द्वारा बिहार पंचायत राज अधिनियम-2006 (यथा संशोधित) की धारा-136 (1)(ख) के तहत अयोग्यता अर्जित कर ली गई है, क्योंकि वे संवीक्षा की तिथि (दिनांक-03.10.2021) को न्यूनतम निर्धारित आयु 21 वर्ष पूरा किए बिना ही मुखिया के पद पर निर्वाचित हुए हैं। फलतः बिहार पंचायत राज अधिनियम-2006 (यथा संशोधित) की धारा- 136 (2) से प्रदत्त भाक्तियों का उपयोग करते हुए श्री ग्रिजेश कुमार भार्मा उर्फ ग्रिजेश भार्मा को तत्काल प्रभाव से पंचायत रामदास बगही, प्रखण्ड-कटेया, जिला-गोपालगंज के मुखिया के पद से पदमुक्त किया जाता है। इसके साथ ही उक्त ग्राम पंचायत रामदास बगही, प्रखण्ड-कटेया, जिला-गोपालगंज का पद रिक्त समझा जायेगा।

(ख) जिला पदाधिकारी, गोपालगंज को, श्री ग्रिजेश कुमार भार्मा उर्फ ग्रिजेश भार्मा के विरुद्ध गलत हलफनामा एवं तथ्य छुपाने हेतु बिहार पंचायत राज अधिनियम की धारा-125 (क) (3) एवं अन्य सुसंगत धाराओं के तहत नियमानुसार विधिक कार्रवाई हेतु जिला निर्वाचन पदाधिकारी (पंचायत) एवं जिला दण्डाधिकारी के रूप में प्राप्त भाक्तियों का प्रयोग कर कृत कार्रवाई से, आयोग को अवगत कराना अनिवार्य है।

- 16) Under the aforesaid facts and circumstances and for the reasons given above, I do not find any legal infirmity in the order dated 14.10.2024 (Annexure P-8) passed by respondent-Commission and, therefore, the said order is upheld. Consequently, the present writ application filed by the petitioner is **rejected/ dismissed**.



17) All pending I.A., if any, shall be deemed to have been disposed
of.

sanjeev/-

(Alok Kumar Sinha, J)

AFR/NAFR	AFR
CAV DATE	01.07.2025
Uploading Date	04.07.2025
Transmission Date	

