

(2020) 09 PAT CK 0242

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 7368 Of 2020

Narendra Singh And Anr

APPELLANT

Vs

Election Commission Of India
And Ors

RESPONDENT

Date of Decision: Sept. 18, 2020

Acts Referred:

- Representation Of The People Act, 1951 - Section 15

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Bindhyachal Singh, Saket Gupta, Dr. K. N. Singh, Vivek Prasad, Siddhartha Prasad

Final Decision: Disposed Of

Judgement

Petitioners pray for the following reliefs:

a) For issuance of a writ of mandamus or any other appropriate writ, order or direction declaring that the notification being S.O. 1964 (E) dated

19th June 2020 Issued by the Respondent No. 3, and the letter bearing Reference No.437/6/1/INST/ ECI/FUNCT/MCC/2020 dated 30th June, 2020

issued by the Respondent No. 1, and all consequences flowing there from are illegal, arbitrary, unreasonable, unconstitutional and void;

b) For issuance of a writ of mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction calling upon the

respondent authorities to forthwith revoke, rescind, recall, cancel and set aside the notification being S.O. 1964 (E) dated 19th June 2020, and the letter

bearing Reference No.437/ 6/1/INST/ ECI/ FUNCT/ MCC/2020, and any subsequent notifications/ orders/ letters issued and/or proposed to be issued

by the respondent authorities for the conduct of the Bihar Elections.

c) For issuance of a writ of mandamus or a writ in the nature of Mandamus or any other appropriate writ order or direction commanding the

respondent authorities and each of them, their agents, servants or assigns or otherwise whosoever to desist from declaring and/or conducting the

general elections to the Bihar Legislative Assembly till such time the Covid-19 situation ends and to postpone the same to an appropriate time.

d) For issuance of a writ of mandamus or a writ in the nature of Mandamus or any other appropriate writ order or direction restraining the respondent

authorities and each of them, their agents, servants or assigns or otherwise whosoever from conducting the Bihar Elections till such time detailed and

reasonable guidelines are framed to protect public health.

e) For issuance of a writ of mandamus or a writ in the nature of Mandamus or any other appropriate writ order or direction restraining the respondent

authorities and each of them, their agents, servants or assigns or otherwise whosoever from acting under and from giving any further and/or any

effect to the notification being S.O. 1964 (E) dated 19 June 2020, and the letter bearing Reference No.437/6/1/INST/ECUFUNCTIMCC/2020 dated

30th June, 2020 and any subsequent notifications/orders/ letters issued and/or proposed to be issued by the respondent authorities for the conduct of

the Bihar Elections.

(f) For issuance of a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ order or direction calling upon the

Respondents to produce all records including documents and/or decision of and/or records of case so that conscionable justice may be done by

quashing notification being S.O. 1964 (E) dated 19th June 2020, the letter bearing Reference No.437/6/1/INST/ECI/FUNCT/MCC/2020 dated 30

June, 2020 and any decision taken to convene elections in Bihar until the end of the Covid-19 Pandemic

g) For appropriate writs, and/or orders and/or direction do issue as would afford complete relief to the Petitioners.

h) For issuance of an Injunction restraining the Respondents and each of them, their servants, agents or assigns whosoever from acting in terms of the

notification being S.O. 1964 (E) dated 19 June 2020, and the letter bearing Reference No.437/6/1/ INST/ ECI/ FUNCT/ MCC/ 2020 dated 30 June,

2020 and any subsequent notifications/orders/ letters issued and/or proposed to be issued by the respondent authorities for purposes of conducting the Bihar Elections.

(i) For issuance of direction staying of operation and further operation of the notification being S.O. 1964 (E) dated 19th June 2020, and the letter

bearing Reference No.437/6/1/NST/ECI/FUNCT/MCC/2020 dated 30 June, 2020 till the disposal of the writ petition and any subsequent

notifications/orders/ letters issued and/or proposed to be issued by the respondent authorities for the conduct of the Bihar Elections.

(j) For issuance of order of Injunction restraining the Respondents and each of them, their servants, agents or assigns whosoever from organizing the

elections of the Bihar Legislative Assembly until detailed and reasonable guidelines are framed to protect public health.

(k) For issuance of order of Injunction restraining the Respondents and each of them, their servants, agents or assigns whosoever from issuing any

notification under Section 15 of the Representation of People Act, 1961, for general elections to the Bihar Legislative Assembly until detailed

guidelines are framed to protect public health.

(l) For issuance of an order of injunction be passed restraining the respondents from giving any effect or further effect or acting in terms of or in

furtherance to the notification dated 19th June, 2020 or the office order dated 30th June, 2020 or any decision to hold elections in the State of Bihar

until the end of the Covid-19 Pandemic or from taking any decision to hold or conduct election in the State of Bihar until the end of the Covid-19

Pandemic.

m) For any Ad interim order in terms of prayers above.

n) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.â€

Sri Siddharth Prasad, learned counsel appearing for the Election Commission, invites our attention to the judgment dated 7.9.2020 passed by us in

CWJC No. 7206 of 2020, titled as Badri Narayan Singh Vs. The Ministry of Home Affairs & Ors. along with its analogous case being CWJC No.

7294 of 2020 titled as Jai Vardhan Narayan Vs. The Election Commission of India & Ors. whereby identical issues and prayers stand adjudicated.

Additionally, learned Additional Solicitor General states that the Election Commission has invited objections on the independent views prescribed by

this Court. It is always open to the petitioners to invite attention of the Election Commission on the issues, which the petitioners seek to highlight.

At this stage, learned counsel for the petitioners fairly states, under instructions, that he does not want to press the present petition reserving liberty to

invite attention to the Chief Electoral Officer (Respondent No.2) about all the issues, not only subject matter of the present petition but other relevant

issues, on which the authorities to form an opinion.

Petition stands disposed of with the liberty as prayed for.