

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4582 of 2015

With

I.A. No.2626 of 2015

With

I.A.No.2628 of 2015

With

I.A. No.3105 of 2015

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Parwati Devi, Wife of Satyanarayan Choudhary, resident of village - Kothia, P.O. Kothia, P.S. Didarganj, District – Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
3. The Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
4. The District Magistrate, Patna.
5. The Deputy Development Commissioner, Patna.
6. The Sub-Divisional Officer, Patna City, Patna.
7. The District Panchayati Raj Officer, Patna.
8. The Block Development Officer, Patna Sadar, Patna.
9. The State Election Commission, represented through its Secretary, State Election Commission, Bihar, Sone Bhwan, 3rd Veer Chand Patel Path, Patna-800001.
10. The Secretary, State Election Commission, Bihar, Sone Bhawan 3d Veer Chand Patel Path, Patna.800001.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava MrAnjani Kumar Jha Ms. Anu Priyadarshini
For the Respondent-State	:	Mr. Ashok Priyadarshi, GA-4 Mr. Sanjay Sinha, AC to GA-4
For State Election Commission:		Mr. Amit Shrivastava Mr Girish Pandey
For the Intervener	:	Mr. Yogendra Prasad Sinha

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 13-05-2015

Heard Mr. Shri Prakash Srivastava, learned counsel

appearing on behalf of the petitioner, Mr. Ashok Priyadarshi,



learned Government Advocate No.4 for the State, Mr. Girish Pandey, learned counsel appearing for the State Election Commission and Mr. Yogendra Prasad Sinha who has entered appearance for the interveners.

The petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the order bearing Memo No.336 dated 22.1.2015 passed by the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna, a copy of which is placed at Annexure-20 to the writ petition, whereby the petitioner has been removed from the post of Mukhiya under section 18(5) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act').

This is another addition to the series of cases in which an elected representative has been removed without evidence and even when half a dozen enquiry reports exonerate the petitioner from all the charges. The statutory authority ignoring all reports has proceeded to remove the petitioner and the Principal Secretary without appreciating the duty and responsibility cast upon him under 'the Act' has mechanically passed the orders which though sans any reasons, is definitely accompanied with a number of adjectival expressions against the petitioner. The removal order, though ornamental, does not reflect any application of mind nor

drives home any charge.

The origin for the ordeal of the petitioner lies on a complaint filed by some persons with motivated interests before the Hon'ble Chief Minister which on being referred for appropriate action a show cause notice was issued by the District Panchayat Raj Officer, Patna on 10.4.2012 placed at Annexure-8 and which position was reiterated vide order bearing Memo no. 633 dated 17.4.2012 present at Annexure-9. The petitioner responded to the allegations by filing her reply on 27.4.2012 present at Annexure-10. While issuing a show cause notice to the petitioner on 10.4.2012, the District Panchayat Raj Officer also directed the Block Development Officer to report on the complaint vide letter present at Annexure-11 and with a reminder on 17.4.2012 present at Annexure-12. The report of the Block Development Officer, Patna Sadar in response to the direction of the District Panchayat Raj Officer is present at Annexure-13 and is dated 28.4.2012 and the Block Development Officer upon enquiry on the complaint found the same baseless and without merit. Even when the situation existed as such, for the reasons best in possession of the District Panchayat Raj Officer he yet recommended for action against the petitioner vide letter dated 25.7.2012 addressed to the District



Magistrate, Patna present at Annexure-14 recommending for her removal under section 18(5) of 'the Act' and in turn the District Magistrate, Patna recommended as such before the Panchayati Raj Department vide letter dated 31.8.2012 present at Annexure-15. It is rather surprising that even when the reply of the petitioner was to be received on 11.10.2012 to the allegation the recommendation by the District Magistrate has preceded even before that on 31.8.2012. The allegations which find mentioned in the recommendation of the District Magistrate forming the memo of charge present at Annexure-15 attributes basically two charges upon the petitioner, namely:

- (a) Interference by her husband in the Panchayat affairs; and
- (b) Not holding meeting in terms of the Rules.

The petitioner while rebutting the charge of interference by her husband replied to the allegation of not holding meetings at regular intervals with supportive documents and which has been taken note of by the District Magistrate in his report sent to the Panchayati Raj Department on 6.2.2013 present at Annexure-17. As regarding the allegations the District Magistrate admits that the meetings indeed have been held though irregularly and in so far as



the interference by her husband is concerned, he has opined that even though the husband can assist the petitioner in the working but no interference can be permitted. The report of the District Magistrate nowhere mentions that there are proofs of interference by the husband of the petitioner. Even the holding of the meetings has not been disputed. Even while this exercise was being carried out at the level of the District Magistrate and the department that a second enquiry was conducted on the allegations by the Block Development Officer as well as the Senior Deputy Collector who have submitted their report on 19.2.2013 and 25.2.2013 and both of them have found the allegations to be motivated and without basis.

It is preposterous that despite half a dozen recommendations by the district authorities in favour of the petitioner reporting the allegations motivated and without basis, yet the Principal Secretary has proceeded to order for her removal. In the circumstances reflecting this Court would not detain itself any further to hold that the order of the Principal Secretary is based on no evidence rather is contrary to the evidence on record. Despite the fact that there is nothing on record to show any kind of interference by the husband and even the District Magistrate has reported that meetings have been held albeit irregularly yet the Principal

Secretary in a sweeping manner has held the petitioner incompetent and with adjectives accompanying the conclusion, he has ordered her removal.

For the reasons aforementioned the order dated 22.1.2015 of the Principal Secretary impugned at Annexure-20 cannot be upheld and is accordingly set aside The petitioner stands restored to the post of Mukhia.

The writ petition is allowed. The interlocutory applications stand disposed of.

(Jyoti Saran, J)

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