

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11278 of 2010

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1. Ganesh Bhagat S/O Late Khakhanu Bhagat R/O Vill.- Bhagwanpur
Pakari, P.O. Manikpur Pakari, Distt.- Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary (Panchayati Raj)
Government Of Bihar, Patna
2. The Collector, Vaishali At Hajipur
3. Sri Musafir Paswan S/O Singheshwar Paswan Sarpanch, Gram
Panchayat, Lakshmi Narainpur, Lalganj Prakhand, Distt.- Vaishali
4. Sitaram Bhagat S/O Late Khakhanu Bhagat R/O Vill.- Bhagwanpur
Pakari, P.O. Manikpur, P.S. Lalganj, Distt.- Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha

For the Respondent/s : Mr. Manoj Kr. Sinha, AC to SC-30

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

6 14-08-2015 Heard Mr. Ratan Kumar Sinha for the petitioner and

Mr. Manoj Kumar Sinha AC to SC-30 for the State.

The application seeks a direction upon the authorities under the Bihar Panchayat Raj Act, 2006 (for short ‘the Act’) for disposal of the appeal which is said to have been filed by the petitioner against the decree passed by the Sarpanch in a suit filed by the private respondents. From Annexure-1, it appears the appeal was not being accepted by the appellate forum as provided under Section 112 of the Act. This propelled the petitioner to file a writ petition being CWJC No. 13908 of 2009. The same was considered and disposed of on 27.10.2009 (Annexure-1)

observing as under:-

“Without going into the merits of the claims and the correctness of the assertions, I direct the Sarpanch of the concerned Gram Panchayat to admit the filing of the appeal which he is statutorily bound to do in terms of Section 112 of the Act. He has no discretion in the matter. Having admitted the appeal, he would decide it on merit which is his statutory duty after due notice to the parties concerned. The decision shall be taken within six months from the date the appeal is admitted. The petitioner to file appeal alongwith copy of order of this Court before the Sarpanch of the concerned Gram Panchayat and in case the Sarpanch still does not receive the appeal and register it, the same shall be sent by registered post to him clearly indicating his refusal to accept it. That would be deemed filing. This contingency should not arise.”

It has been stated that an appeal was filed on 8.2.2010. The same has not till date been considered and disposed of. The petitioner, however, has not stated specifically in the writ petition that the Gram Kutchery of the concerned Gram Panchayat is still functional or not.

Counsel for the State, on the other hand, drawing attention of the Court to Annexure-1 submitted that an order has already been passed by this court. If the petitioner is aggrieved by non compliance thereof then appropriate remedy is by filing of contempt application for implementation of the order.

Be that as it may, if the petitioner has filed an appeal which requires consideration and disposal as per the provisions of the Act and the Gram Kutchery of the concerned Panchayat is functional, this Court would direct the concerned appellate authority to consider the appeal which is said to have filed on 8.2.2010 without disclosing the number thereof in accordance with law as quickly as possible preferably within four months from the date of receipt/production of a copy of this order.

(Kishore Kumar Mandal, J)

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