

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3811 of 2015

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Sukhdev Mandal, son of Late Fedru Mandal, resident of Village- Urlaha,
P.S.- Palasi, District- Araria at present Mukhia, Gram Panchayat Raj,
Baradbatta, P.S. Palasi, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj
Department, Government of Bihar.
2. Commissioner, Purnia Division, Purnia.
3. District Magistrate Araria.
4. Deputy Director, Panchayati Raj, Purnia Division, Purnia.
5. District Panchayati Raj Officer, Araria,
6. Block Development Officer, Palasi , District Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamal Kishore Mishra

For the Respondent/s : Mr. Lalan Kumar, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 03-11-2015 Heard Mr. Kamal Kishore Mishra, learned counsel

appearing on behalf of the petitioner and Mr. Lalan Kumar,

learned Assisting Counsel to Government Pleader No.23 for the

State.

The petitioner is aggrieved by the recommendation
dated 4.2.2015 of the Commissioner, Purnea Division, whereby
he has directed the District Magistrate, Araria to recommend the
removal of the petitioner from the post of Mukhiya, Gram
Panchayat Raj, Baradbatta under section 18(5) of the Bihar
Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act').
Even while making such submission it is fairly admitted by Mr.
Mishra that the opinion expressed by the Commissioner in his

letter dated 4.2.2015 has not yet been acted upon by the District Magistrate, Araria and no such proposal has been forwarded.

Although there is a counter affidavit filed on behalf of the respondent no.2 and again on behalf of respondent nos.2 to 6 but in none of the counter affidavits any stand has been taken that the Commissioner's advise has been acted upon. Although it is stated at the Bar by Mr. Lalan Kumar, learned Assisting Counsel to Government Pleader No.23 on the basis of instruction received that necessary steps are being taken in the light of the opinion of the Commissioner but the instruction so produced also does not reflect any recommendation by the District Magistrate as of today.

In the circumstances and in absence of any recommendation by the District Magistrate for removal of the petitioner under section 18(5) of 'the Act' I am of the opinion that the issues raised by the petitioner do not require any opinion at its present stage and the writ petition is disposed of leaving it open for the petitioner to raise all issues as raised in this writ petition before the prescribed authority in case any such recommendation is made by the District Magistrate, Araria for removal of the petitioner under section 18(5) of 'the Act' and the same is acted upon by the department.

It goes without saying that should any proceeding under section 18(5) of 'the Act' is initiated against the petitioner, the same has to be disposed of in accordance with law after opportunity of hearing to the petitioner who shall be at liberty to raise all issues as raised in the present petition.

The writ petition is disposed of with the aforesaid observation.

(Jyoti Saran, J)

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