

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18393 of 2013

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Chanda Singh, wife of Sri Vijay Kumar Singh, resident of Village- Saropai
Khapi, P.O. and P.S.- Vijaipur, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Gopalganj, District- Gopalganj.
5. The Deputy Development Commissioner, Gopalganj –cum- Chief Executive Officer, Gopalganj Zila Parishad, District- Gopalganj.
6. Smt. Urmila Pandey, wife of Sri Satish Pandey.
7. Smt. Bibi Sabnam, wife of Sri Babar Ali.

Respondent nos.6 and 7 are the elected members of
Gopalganj Zila Parishad through the Deputy Development
Commissioner, Gopalganj –cum- Chief Executive Officer, Gopalganj
Zila Parishad, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam
For the Respondent/s : Mr. Prahlad Kr. Bhagat, GP-12
For the Zila Parishad : Mr. Ranjeet Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 18-08-2015 Heard Mr. S.B.K. Manglam, learned counsel

appearing on behalf of the petitioner, learned counsel for the

State and Mr. Ranjeet Kumar Pandey, learned counsel

appearing for the Zila Parishad, Gopalganj.

The petitioner is *Adhyaksh* of Zila Parishad,
Gopalganj having succeeded in the election held in the year
2011. Respondent nos.6 and 7 have been declared elected as
Members of Gopalganj Zila Parishad. It is the complaint of the



petitioner that these private respondents are not participating in the meetings of the Zila Parishad and are not discharging the obligation for which they have been elected. It is complaining of misconduct on the part of the private respondents in discharging their duties as Members of the Zila Parishad that this writ petition has been filed praying for issuance of a writ in the nature of Quo-warranto restraining the respondent nos.6 and 7 from functioning as Members of the Gopalganj Zila Parishad.

Counsel for the respondents with reference to the statement made by the petitioner in paragraph 13 of the writ petition submits that even when the petitioner admits that there is no such provision available under the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') for removal of any Member of Zila Parishad on any grounds, the petitioner yet endeavours to make such prayer and the effect of which would be to nullify the election of such members.

Having heard learned counsel for the parties and even while appreciating the anxiety of the petitioner as canvassed in the present writ petition this Court would yet restrain itself from issuing any direction in tune with the relief prayed by the petitioner in absence of any statutory provisions



disqualifying a Member of the Gram Panchayat/Panchayat Samiti or Zila Parishad for his default in not attending the meetings of the Panchayat/Zila Parishad. It has been understandably argued by Mr. Manglam that even when there are statutory provisions in the Bihar Municipal Act and in the Constitution of India for unseating such defaulting members by an order of disqualification, surprisingly no such provision has been incorporated under 'the Act' which would disqualify any elected Member of a Panchayat for his default in not attending the meetings. A glance to the provisions of 'the Act' reflects that though there are provisions for removal of the Mukhiya/Up Mukhiya, Pramukh/Up Pramukh and Chairman/Vice-Chairman in the three tier panchayat set up vide no confidence motion or under the orders of the Principal Secretary on such grounds as stipulated under 'the Act' as well as on grounds of misconduct but there is no such provision available under 'the Act' which disqualifies a Member who refuses to discharge the obligation for which he has been elected. These are issues which are required to be considered at the level of the Government to think about an appropriate amendment in 'the Act' for it would go a long way in achieving the object of 'the Act' and to strengthen the

working of the Panchayats. Chapter-IX was incorporated in the Constitution of India with a laudable object and endeavoured to strengthen the Panchayat at the grass-root level as well as for its democratic functioning but instances of such kind where the Members do not even participate in the meeting, would not only adversely effect the functions of the Panchayat but would also belie the faith of the electorate and as well would indicate their failure to serve the Panchayat.

But then as I have observed that in absence of any statutory provisions this Court while appreciating the anxiety of the petitioner can only hope and trust that the discussions made hereinabove are sufficient indication for the State to ponder over the issue and take appropriate remedial measures.

This writ petition is accordingly disposed of.

(Jyoti Saran, J)

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