

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2741 of 2015

=====

Dulari Devi wife of Rajendra Rishi, resident of village Barhari, P.S.
Bhawanipur, Dist. Purnia

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Purnia
2. Principal Secretary, Department of Panchayati Raj, Bihar, Patna
3. Secretary, Department of Panchayati Raj, Bihar, Patna
4. Assistant Director, Panchayati Raj Directorate, Bihar, Patna
5. District Magistrate, Purnia
6. Deputy Development Commissioner, Purnia
7. District Panchayat Raj Officer, Purnia
8. Sub Divisional Officer, Purnia
9. Block Development Officer, Bhawanipur, Purnia

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Prabhat Ranjan Singh, Advocate

For the Respondent/s : Mr. Anshuman Singh, GP-24

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 17-04-2015 Heard Mr. Prabhat Ranjan Singh, learned counsel

appearing on behalf of the petitioner and Mr. Shri Ram Krishna,

Assisting Counsel to G.P. 24 for the State.

The petitioner, an Ex-Mukhiya of Gram Panchayat Barhari, Block-Bhawanipur in the District of Purnea questions her removal under Section 18(5) (i) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act').

The reason assigned for her removal is, her failure to conduct herself, inept handling of the affairs of the Gram Panchayat as well as interference by her son with the day to day

function of the Gram Panchayat.

It is upon enquiry made by the district authorities under the supervision of the District Magistrate that a recommendation was made to the Principal Secretary for her removal under Section 18(5) of 'the Act' and the Principal Secretary after considering the materials on record as well as the stand of the petitioner, has confirmed the recommendation and ordered for her removal vide order passed on 19.1.2015 bearing Memo No. 335 dated 22.01.2015, a copy of which is placed at Annexure-1 to the writ petition and being aggrieved the Mukhiya is before this Court.

I have heard learned counsel for the parties and I have perused the materials on record.

The allegation against the Mukhiya as it reflects from the show cause notice issued by the District Panchayat Raj Officer dated 4.12.2012 placed at Annexure-4 to the writ petition reflects that the petitioner had withheld the payment of the Panchayat Teachers for the period since after April, 2012 and until issuance of the show cause notice on 4.12.2012 i.e. for over eight months. In fact the petitioner had issued the cheque but had subsequently through her son directed the bank concerned to stop its payment for the reasons as would be discussed hereinafter. The allegation



against the petitioner is that she through her son was seeking enrichment for performing her statutory duty of disbursement of salary. The petitioner filed her show cause reply on 15.01.2013 placed at Annexure-5 and in which she candidly admits that after issuance of the cheque that it came to her knowledge that the concerned teachers had committed forgery by putting a stamp not authorized by the Panchayat and whereupon her son went to the bank and stopped the payment of the cheque. The interference of the son of the petitioner is further established from the reply in which the petitioner has stated that the teachers belonged to the stronger section of the society and had threatened to involve them in a criminal case. Had it been a case of isolated instance or had the petitioner taken steps for disbursement of the salary, perhaps this Court would have been drawn in favour of the petitioner but what puts this Court in anguish is that even at the stage of recommendation by the District Magistrate to the Principal Secretary seeking her removal which was issued as late as on 21.5.2013, the payments were yet wanting and the petitioner did not take steps for payment of the salary of those teachers which was pending since April 2012 i.e. the period of over 13 months.

Mr. Singh, learned counsel appearing for the petitioner have laboured hard to justify the action of the petitioner under the

cover of ignorance of lawful procedure and being the first instance mistake but as I have observed hereinabove, had the petitioner taken appropriate steps to ensure the payment of salary and the show cause reply would not have reflected the interference of the son in the working of the Panchayat then perhaps the petitioner would have invited a second chance but in the circumstances discussed, the petitioner's claim does not merit any consideration nor the order of the Principal Secretary warrant any interference.

The writ petition is dismissed accordingly.

(Jyoti Saran, J)

S.Sb/-

U			
---	--	--	--