

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.864 of 2015

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Ajit Kumar, S/o Sri Ramnandan Sharma, R/o Mohalla-
Chanakayapuri Colony, LI.G. 238, P.S.-Rampur, Distt.-Gaya.

.... Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Government of
Bihar, Patna.

2. The Principal Secretary, Urban Development and Housing
Department, New Secretariat, Government of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Jai Prakash Verma, Adv.

For the Respondent : Mr. Pratik kr. Sinha, AC to GA-12

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH)**



Date: 15-12-2015



This writ application, under Article 226 of the Constitution of India, in the nature of Public Interest Litigation, has been filed seeking a direction to the respondents-State of Bihar to frame rules for constitution of cadres of common municipal services, in terms of the provisions contained under the Bihar Municipal Act, 2007 (*hereinafter referred to as "**the Act**"*) read with *Amendment* incorporated in the year 2011.

Learned counsel, appearing on behalf of the petitioner, has relied on Section 43(1) of the Act in support of his submission that it is the duty of the State of Bihar to frame rules in accordance with the said provisions. Since the State Government has failed to do so, this Court should issue a writ, in the nature of writ of *mandamus*, commanding the State Government to discharge their statutory duty and frame rules.

We are not convinced with the submissions made on behalf of the petitioner inasmuch as the said provision, embodied under Section 43(1) of the Act, is an enabling provision, conferring power upon the State Government to frame cadre rules/service rules. No *mandamus* can be issued to the State Government for

framing rules, which is not mandatorily required under the Act. No direction, as sought for, can be issued by this Court exercising power of judicial review under Article 226 of the Constitution of India.

This Public Interest Litigation stands closed accordingly with the observation, aforesaid.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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