

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4742 of 2015

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Brajendra Prasad, S/o Shri Mohar Sah, Resident of Village- Mohammadpur,
PS - Marhaurah, District - Saran at Chapra, presently Member of Block
Panchayat Samiti, Marhaurah, District - Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Saran at Chapra.
5. The Sub-Divisional Officer, Marhaurah, District - Saran at Chapra.
6. The Block Development Officer, Marhaurah -cum- the Executive Officer, Block Panchayat Samiti, Marhaurah, District - Saran at Chapra.
7. Shri Madhusudan Kumar, S/o - not known to the petitioner, Presently Pramukh of Block Panchayat Samiti, Marhaurah, PO + PS - Marhaurah, District - Saran at Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam
Mr. Chandan

For the Respondent/s : Mr. Rabindra Kumar Priyadarshi, SC-32

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 03-11-2015 Learned counsel for the parties are present and have
been heard.

This writ petition has been filed by the petitioner seeking a limited relief in the form of a direction to the respondent no.2, the Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna to consider his application filed under section 44(4) of the Bihar Panchayat Raj Act, 2006 (hereinafter after referred to as 'the Act'), a copy of which is placed at Annexure-3 to the writ petition.



It is argued by learned counsel for the petitioner that although the application seeking ouster of the private respondent under section 44(4) of 'the Act' was filed by the petitioner as back was on 12.7.2014 as is evident from the receipt present at Annexure-3 and despite a period of more than one year has lapsed, yet the same has not been disposed of.

Section 44(4) of 'the Act' casts an obligation on the State Government who in the present case is Principal Secretary in the department to pass appropriate order if in his opinion the Pramukh or Up-Pramukh of a Panchayat Samiti is found guilty of any of the statutory violations so present under section 44(4) of 'the Act'. The obligation thus cast upon the Principal Secretary is not an empty formality rather has to be discharged upon consideration of the materials presented before him in the application and also after giving an opportunity of hearing to the incumbent concerned to defend himself.

Having heard learned counsel for the parties and considering that such an application filed by the petitioner is pending consideration before the Principal Secretary, Department of Panchayati Raj since 12.7.2014 this Court thinks it fit and proper to dispose of the writ petition with a direction to the respondent no.2, the Principal Secretary, Department of

Panchayati Raj, Government of Bihar, Patna to consider the application filed by the petitioner under section 44(4) of 'the Act' and dispose of the same in accordance with law but only after giving an opportunity of hearing to the petitioner and the Pramukh concerned who is respondent no.7 herein and since the application is pending consideration for more than one year hence an expeditious disposal preferably within a period of three months from the date of receipt/production of a copy of this order would be appreciated. This disposes of the writ petition.

(Jyoti Saran, J)

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