

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22645 of 2013

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Pushpanjan Kumar, son of Sri Devendra Prasad, resident of Village and P.O. Parthu, Police Station - Ekangar Sarai, District – Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Panchayati Raj, Government of Bihar, Patna.
2. Director, Panchatati Raj Department, Government of Bihar, Patna.
3. District Magistrate, Nalanda, District – Nalanda.
4. Assistant Director, Panchayati Raj Department, Government of Bihar, Patna.
5. District Panchatati Raj Officer, Nalanda, District – Nalanda.
6. Deputy Development Commissioner cum Executive Officer, Zila Parishad, Nalanda, District – Nalanda.
7. Sub - Divisional Officer, Hilsa, Sub-Divisional, District – Nalanda.
8. In-Charge Officer, District Public Complaint Cell, Nalanda.
9. Block Development Officer, Ekangar Sarai Block, Nalanda.
10. Executive Engineer, Manrega, D.R.D.A., Nalanda.
11. Programme Officer, Ekangar Sarai, Nalanda.
12. Panchayat Secretary, Parthu Panchayat, Nalanda.
13. Smt. Kumari Tripathi, Wife of Sri Dharmendra Kumar, Mukhiya, Parthu Gram Panchayat, Ekangar Sarai, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nand Kumar Singh

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 14-09-2015

Heard Mr. Nand Kumar Singh, learned counsel

appearing for the petitioner. There is no representation on behalf of the State.

The petitioner prays for appropriate direction to the authorities of the Department of Panchayati Raj including the Principal Secretary thereof and the District Magistrate, Nalanda to initiate proceedings against the private respondent no.13 who happens to be the Mukhiya of Gram Panchayat Raj, Parthu in the district of Nalanda under section 18(5) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as ‘the Act’) on

grounds of being indulged in acts of omission and commission as also financial irregularities.

Mr. Singh, learned counsel appearing on behalf of the petitioner with reference to the enquiry report dated 14.3.2011 addressed to the District Magistrate, Nalanda present at Annexure-2 and the enquiry report submitted by the Additional Collector, Nalanda dated 15.9.2011 present at Annexure-6 submits that a recommendation was made by the Additional Collector to the Sub-Divisional Officer, Hilsa for initiating a proceeding against the private respondent under section 18(5) of 'the Act' but the matter having reached the department the Assistant Director vide letter dated 15.5.2013 decided against such recommendations, inter alia, on grounds that the allegation was relatable to the events during the previous tenure of the present Mukhiya.

It is the contention of Mr. Singh that although these acts of omission and commission and financial irregularities have happened during the previous tenure of the Mukhiya concerned but then it has its impact on the successive tenure as well since it involves the financial irregularities and thus this cannot be a ground to ignore the irregularities. He further submits that even when the department is conscious about the financial irregularities and 3 FIRs have been instituted against

the Mukhiya but no action has been taken for her removal.

Having heard learned counsel for the petitioner and considering the document on record in my opinion the petitioner should raise his grievance before the District Magistrate, Nalanda along with the supportive document who shall examine the issue so raised by the petitioner and dispose of the same in accordance with law after giving an opportunity of hearing to the petitioner and the Mukhiya concerned who is the private respondent in the present proceeding.

The District Magistrate would examine the matter with an independent mind without being prejudiced by the opinion expressed by the Assistant Director as present in the letter dated 15.5.2013 placed at Annexure-1 to the writ petition and would take appropriate decision at his own level in the light of the documents on record. An expeditious disposal of the matter preferably within a period of three months from the date of receipt/production of a copy of this order would be appreciated.

The writ petition is disposed of with the directions/ observations aforementioned.

(Jyoti Saran, J)

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