

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14033 of 2013

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Priti Singh W/O Suresh Pd. Singh Chairman - Nagar Panchayat - Bodhgaya, P.S.
Bodhgaya, Distt. - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar, Through Principal Secretary, Cabinet Secretary Department
Govt. Of Bihar, Patna
2. Principal Secretary Urban Development and Housing Department, Govt. Of
Bihar, Patna
3. Divisional Commissioner, Magadh Division, Gaya
4. District Magistrate, Gaya
5. Dy. Development Commissioner, Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. ASHOK KUMAR
For the Respondent/s : Mr. ANIL KR UAPDHYAY

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 10-05-2016

Heard Mr. Amar Nath Singh for the petitioner and Mr.
A.K.Upadhyaya for the State.

Counter affidavit and rejoinder thereto have been filed by the parties.

The petitioner is the elected Chairman of the Nagar Panchayat,
Bodhgaya. She filed the present writ application questioning the interference with
the day-to-day functioning of the Nagar Panchayat by the Divisional
Commissioner. It is stated, by annexure-3, the Divisional Commissioner
constituted an Enquiry Committee to go into the alleged irregularity in
managing the affairs of the Nagar Panchayat. Vide Annexure-5, certain officers
deputed in the Nagar Panchayat, were withdrawn again by the Divisional
Commissioner. When the Enquiry Committee earlier constituted did not take any
action, it is stated, the Divisional Commissioner again, vide order dated



04.07.2013 (Annexure-7), constituted another Enquiry Committee. The counsel for the petitioner relied on diverse provisions of the Bihar Municipal Act, 2007 in order to submit that it is the State Government which can take any such supervisory measures under Chapter 8 of the Bihar Municipal Act. In this connection, he has also referred to section 25 (5) of the Act whereunder the State Government, on being satisfied, can take a punitive action against the elected authority of the Nagar Panchayat, like the petitioner. The Divisional Commissioner has, however, no role to play in the case of the Nagar Panchayat.

Mr. Upadhyaya has referred to an order dated 21.09.2013 issued by the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, wherefrom it appears that on getting certain reports from the District Magistrate and other officers, the respondent State has decided to issue a show cause notice to the petitioner and other officers/incumbents who were found acting in the management of the affairs of the Nagar Panchayat contrary to the provision of the Act. The counsel for the petitioner, however, draws attention of the Court to clause 15 of the said order and submits that although from the said order it appears that a decision has been taken to issue a show cause notice to the petitioner and other incumbent(s) of the Nagar Panchayat, but till date no such notice has been issued and served on the petitioner.

Taking into account the submissions of the parties and after perusal of the materials on record, this Court is of the view that the State Government is seized with the matter in which a decision appears to have been taken to issue a show cause notice to different incumbents/functionaries of the Nagar Panchayat. The said order is not under challenge in the present writ application.

Mr. Amar Nath Singh states that a liberty be granted to the petitioner to assail the said decision of the government. In my view, no permission is

required to assail any order which prejudices any person. It will be open to the petitioner to take steps against the said order of the government in accordance with law.

As the matter has advanced and the government on receipt of certain reports including that of the District Magistrate is in seisin of the matter concerning the Nagar Panchayat, this Court does not find good ground to interfere with the constitution of the Committee under the two impugned orders of the Divisional Commissioner which have become somewhat irrelevant.

Before parting with the records, this Court would, however, observe that any interference with day-to-day functioning of the Nagar Panchayat shall be made by the authority only in accordance with the provisions contained in the Bihar Municipal Act, 2007 read with Article 243 of the Constitution of India.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

HR/-

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