

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.384 of 2016

Sanjay Kumar Singh, Son of Kapileshwar Prasad Singh, Resident of Mohalla-Sardarnagar, Ward No.27, Police Station- Saharsa, District- Saharsa.

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
3. The District Magistrate, Saharsa
4. The Chairman, Saharsa Nagar Parishad, Saharsa
5. The Executive Officer, Saharsa Nagar Parishad, Saharsa
6. Lalit Kumar, Junior Engineer, Saharsa Nagar Parishad, Saharsa
7. Ajay Kumar, Junior Engineer, Saharsa Nagar Parishad, Saharsa.
8. Shekhar Kumar Shukla, Accountant, Saharsa Nagar Parishad, Saharsa.
9. Niraj Kumar Verma, Assistant, Saharsa Nagar Parishad, Saharsa.
10. Ganesh Lal Deo, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
11. Maigham Baitha, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
12. Ravi Shankar Sinha, Computer Operater, Saharsa Nagar Parishad, Saharsa.
13. Deo Narayan Sah, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
14. Jitendra Kumar, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
15. Goutam Kumar, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
16. Sanjeev Kumar Verma, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
17. Md. Rajiuddin, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
18. Amit Kumar, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
19. Manish Kumar, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
20. Chotkan Rai, Amin, Saharsa Nagar Parishad, Saharsa.
21. Vijay Das, Janjir Vahak, Saharsa Nagar Parishad, Saharsa.
22. Chandra Kishore Mukhiya, Assistant Inspector, Saharsa Nagar Parishad, Saharsa.
23. Shivendra Bhagat, Assistant Inspector, Saharsa Nagar Parishad, Saharsa.
24. Viveka Nand Jha, Assistant Jamadar, Saharsa Nagar Parishad, Saharsa.
25. Pankaj Pandit, Janjir Vahak, Saharsa Nagar Parishad, Saharsa.
26. Md. Hasnain, Peon, Saharsa Nagar Parishad, Saharsa.
27. Suman Day, Night Guard, Saharsa Nagar Parishad, Saharsa.
28. Aanand Kumar, Clerk, Saharsa Nagar Parishad, Saharsa.
29. Mithesh Kumar, Tractor Driver, Saharsa Nagar Parishad, Saharsa.
30. Amrendra Kumar Yadav, Tractor Driver, Saharsa Nagar Parishad, Saharsa.
31. Pramod Kumar, Tractor Driver, Saharsa Nagar Parishad, Saharsa.
32. Amit Kumar Yadav, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
33. Anil Kumar, Tax Daroga, Saharsa Nagar Parishad, Saharsa.
34. Santosh Kumar, Assistent, Saharsa Nagar Parishad, Saharsa.

.... Respondents

Appearance :

For the Petitioner : Mr. Bindhyachal Singh, Advocate
Mr. Satya Prakash, Advocates
For the State : Mr. Anjani Kumar, A.A.G. 2

For respondent Nos.4 & 5 : Mr. Dharendra Kr. Jha, Advocate
Mr. Sarvesh Chadnra Verma, Advocates

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 27-09-2016

Heard Mr. Bindhyachal Singh, learned Counsel for the petitioner and Mr. Anjani Kumar, learned A.A.G. 2. We have heard also Mr. Dharendra Kumar Jha, learned Counsel for the respondent Nos. 4 and 5.

By means of this writ petition, made under Article 226 of the Constitution of India, the petitioner has raised a question of great public importance inasmuch as Saharsa Nagar Parishad, Saharsa, instead of running the affairs of the Municipality with the help of regularly appointed employees against sanctioned posts, has, admittedly, indulged in making contractual appointments and running the affairs of the Municipality with the help of such contractual appointees. The concerned authority has appeared in person on 11.07.2016 and this Court passed an order, which reads as under:-

*“In compliance of the direction
issued, in this case, on 18.04.2016, Shri Dinesh*



Ram, Executive Officer, Saharsa Nagar Parishad, Saharsa, is present, but he could not explain nor could he assign the reasons as to how the Board, in question has been functioning substantially on the basis of contractual employees and not by regular appointments against posts, which have been sanctioned. To the query made by this Court, Mr. Sanjay Kumar, learned Government Counsel, could not give any satisfactory reply. We hereby, in the interest of justice, direct that this Public Interest Litigation be listed under the heading 'For Orders' on 26.07.2016 and on that day, respondent No. 2, the Secretary, Urban Development and Housing Department, Government of Bihar, respondent No. 3, the District Magistrate, Saharsa, and respondent No. 4, the Chairman Saharsa Nagar Parishad, Saharsa, shall appear in, person, along with all relevant records and file affidavit to show if the Board has been functioning in accordance with law."

Even today, though counter affidavits have been



filed on behalf of the State respondents as well as the Municipality concerned, we do not find either the Municipality or the State Government offering any explanation for the manner in which the affairs of the respondent-Municipality, in the area of finance, are being run. As a matter of fact, if such gross financial irregularities are to be overcome, one remedy, which the State could have resorted to lies in superseding the respondent- Municipality, but the same has not been done. The degree or extent of financial irregularities can be easily gauged from the fact that we are informed at the Bar that the benefit of the recommendations of 6th Pay Commission has also been extended to the contractual employees of the respondent-Municipality and yet the State Government has taken no action as against such financial irregularity committed by the Nagar Parishad, Saharsa

There is considerable force in the submission, made on behalf of the petitioner, by Mr. Bindhyachal Singh, learned Counsel, that as far as contractual appointees are concerned, they do not have any indefeasible right and their appointment *per se* against sanctioned post is illegal in the manner in which it is being done.

Coupled with the above, counter affidavit, which has been filed by the State, does not give any indication that the State assumes responsibility to ensure compliance of law by Saharsa

Nagar Parishad as far as the laws relevant to the subject, in issue, is concerned.

We, therefore, in the interest of justice, direct respondent Nos. 4 and 5, namely, the Chairman, Saharsa Nagar Parishad, Saharsa, and the Executive Officer, Saharsa Nagar Parishad, Saharsa, to discontinue the contractual appointments made by the respondent Nagar Parishad with effect from 31.12.2016 and, in the meanwhile, the respondents shall take such steps, as may be necessary, to ensure that regular appointments are made against sanctioned posts and no contractual employee, against sanctioned posts, is engaged for the purpose of making the post operational. Any disobedience of this order, if brought to our notice, would be taken seriously and may expose the persons concerned to contempt of Court.

With the above observations and directions, this writ application is closed with liberty granted to the petitioner to approach this Court with appropriate application, in future, if the situation so warrants and/or take recourse to appropriate provisions of law as may be permissible.

Before parting with this Public Interest Litigation, we make it clear that Mr. Bindhyachal Singh, learned Counsel, appearing on behalf of the petitioner, has informed that the petitioner

is under serious threat from the functionaries and employees of Nagar Parishad, Saharsa, including contractual employees aforementioned. We, therefore, direct the District Magistrate, Saharsa and the Superintendent of Police, Saharsa to ensure safety and security of the petitioner and his family.

(I. A. Ansari, CJ)

(Dr. Ravi Ranjan, J)

Prakash/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	6/10/2016
Transmission Date	NA