

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.359 of 2016

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1. Manoj Das Son of late Sukti Das Resident of Village- Murala, P.S Ramgarhwa, Dist East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Panchayati Raj Department, Bihar, Patna.
2. The Chief Secretary, Panchayat Raj, Department New Secretariat, Patna.
3. The Principal Secretary, Panchayat Raj Department, New Secretariat, Patna.
4. The Secretary, State Election Commission, Patna.
5. The Director, Panchayat Raj, Bihar Patna.
6. The Deputy Director, Panchayatiraj, (Election), New Secretariat, Patna.
7. The Deputy Development Commissioner, East Champaran.
8. The Collector, East Champaran.
9. The District Panchayat Raj Officer, East Champaran.
10. The Program Officer, Ram Garhwa, East Champaran.
11. The Block Development Officer, Block- Ramgarhwa, District -East Champaran.
12. The Panchayat Secretary, (Panchayat Rojgar Sewak), Gram Panchayat-Murla, Block-Ramgarhwa, East Champaran.
13. Sri Amit Kumar, the Ex-Panchayat Secretary, (Panchayat Rojgar Sewak), Gram Panchayat-Murla, Block-Ramgarhwa, East Champaran.
14. Smt. Fulwati Devi W/o Hari Ram Mukhiya Gram Panchayat-Murla, Block-Ramgarhwa, East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manohar Prasad Singh, Adv.
For the Respondent/s : Mr. J.P.Kishore, A.C. to G.P.13
For the S.E.C. : Mr. Amit Srivastava, Adv.
Mr. Girish Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 11-01-2016 Heard learned counsel for the parties.

The petitioner seeks a direction to the authorities under the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') for removal of the respondent No.14 under Section 18(5) of 'the Act' for having incurred disqualification as provided thereunder.

The provisions of Section 18(5) of 'the Act' enables the

State Government to take appropriate action against a sitting Mukhiya/ Up-Mukhiya in case he is found violating either of the circumstances provided thereunder.

It is the contention of Mr. Singh that not only the Mukhiya but even the Panchayat Rojgar Sewak have indulged in large scale acts of omission and commission. He relies upon a representation filed before the Principal Secretary, Panchayati Raj Department, Government of Bihar present at Annexure-12 and prays for a direction to the Principal Secretary to dispose of the same.

In my opinion, in view of the position settled by this Court in the judgment passed in **C.W.J.C. No.17721 of 2015 (Roop Narayan Vs. State of Bihar & Ors.)** the word 'State Government' as occurring in Section 18(5) of 'the Act' would not mean the Principal Secretary rather under the Rules of Executive Business framed under Article 166 of the Constitution, it would mean the Minister In-Charge. Thus until such time that such power is delegated on the Principal Secretary by the Minister In-Charge vide Standing Orders/directives, he cannot exercise any such power on behalf of the State Government. That the representation is not addressed to the correct authority, no directions can be issued.

The writ petition is thus disposed of with liberty to the petitioner if so advised, to approach the appropriate authority under 'the Act' for the purpose by filing a duly constituted petition.

Bibhash/-

(Jyoti Saran, J)

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