

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2012 of 2017

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Janak Sah son of Narsingh Sah Resident of Ward No. 2, Jamadar Tola, P.O. Bettiah, P.S. Bettiah Town, District - West Champaran at Bettiah.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Director, Municipal Administration-cum-Joint Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
4. The Deputy Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
5. The District Magistrate, West Champaran at Bettiah, District - West Champaran at Bettiah.
6. The Additional Collector, West Champaran at Bettiah, District - West Champaran at Bettiah.
7. The Executive Officer, Nagar Parishad, Bettiah, P.O. Bettiah, P.S. Bettiah Town, District - West Champaran at Bettiah.
8. Sri Anish Akhatar son of Late Sadakat Hussain Resident of Mohalla - Kalibagh, Mohammad Nagar, Ward No. 14, P.O. Bettiah, P.S. Bettiah Town, District - West Champaran at Bettiah, presently Chief Councilor, Nagar Parishad, Bettiah, P.O. Bettiah, P.S. Bettiah Town, District - West Champaran at Bettiah.
9. Jahangir Alam son of not known to the petitioner Resident of Mohalla - Lal Bazar, Pakija Market, Church Road, Bettiah, P.O. Bettiah, P.S. Bettiah Town, District - West Champaran at Bettiah.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S. B. K. Mangalam, Advocate
For the State	:	Mr. Subhash Prasad Singh, GA 3
For the Respondent No. 7	:	Mr. Priyadarshi Matin Sharan, Advocate
For the Respondent No. 8	:	Mr. Jagjeet Roshan, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 04-08-2017

Heard learned counsel for the parties.

2. The petitioner has moved the Court for the following
reliefs:

*“ (I) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the order dated 27.01.2017 passed by the Respondent no. 2 and communicated to the petitioner under memo no. 528 dated 27.01.2017 issued under the signature of the Respondent no. 3, whereby and where under the petitioner has been removed from the post of Chief Councilor of Nagar Parishad, Bettiah in exercise of its power under Section 25 (5) of the Bihar Municipal Act, 2007 (hereinafter referred to as the Municipal Act).*

(II) For a declaration that since the Respondent no. 8 was elected to the post of Chief Councilor in a furtuous circumstances after the petitioner was removed from the post by the State Government, he will have to vacate the office of the Chief Councilor for the petitioner and his election would become void as a consequence of the order passed by this Hon'ble Court in favour of the writ petitioner after setting aside the impugned order passed by the Respondent no. 2.



(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. However, at the very outset, learned counsel for the petitioner very fairly submitted that now the term of the erstwhile Nagar Parishad, Bettiah having expired, fresh elections have also been held and the body constituted and also the post of Chief Councillor has been filled up by another person. In that view of the matter, he submitted that the cause is only academic. At this juncture, learned counsel made a prayer to the Court that as consequences have fallen from the order impugned and criminal case has also been instituted, the Court may protect the *bona fide* interest of the petitioner to the extent that the findings arrived at in the impugned order by the respondent no. 2 may not prejudice any enquiry by any of the authorities, including the police.

4. Learned counsel for the State takes a stand that any other enquiry, including the police investigation, being have an independent enquiry, shall go into the merits of the matter without being influenced by any of the findings in the order impugned.

5. Learned counsel for the respondent no. 8 adopts the stand taken by learned counsel for the State.

6. In view of the aforesaid, the writ petition stands



disposed off with the observation that any investigation by any authority, including the police, initiated pursuant to the order impugned, shall be conducted objectively and independently and shall be without prejudice to the case of the parties including defence of the petitioner. It is further made clear that the Court has not expressed any opinion on the merits of the matter and any of the observations made in any of the orders passed in the present case shall not prejudice the case of any of the parties during any enquiry/investigation or in any other collateral proceeding.

(Ahsanuddin Amanullah, J)

Anjani/-

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