

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10966 of 2017

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Madhepura Zila Mukhiya Sangh through the Adhyaksh namely Swadesh Kumar,
Son of Sri Baleshwar Prasad Yadav, Resident of Village- Belodih, P.O. Belo, P.S.
Murliganj, District- Madhepura, presently Mukhiya of Gram Panchayat Raj, Belo,
Block- Murliganj, District- Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar,
Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Madhepura, District- Madhepura.
5. The Deputy Development Commissioner, Madhepura, District- Madhepura.
6. The Block Development Officer, Alam Nagar, District- Madhepura.
7. The Block Development Officer, Singheshwar, District- Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. B. K. Mangalam, Advocate
For the State : Mr. Kumar Alok, SC 7

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 04-09-2017

Heard Mr. S. B. K. Mangalam, learned counsel for the
petitioner and Mr. Kumar Alok, learned S.C. 7 for the State.

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 letter dated 21.07.2017 issued by the Respondent no. 5 and contained in his letter no. 1428 dated 21.07.2017 whereby and where under a direction has been issued to all Block Development Officers of Madhepura District to ensure transfer of funds of Gram Panchayat to the account of Ward Committee for implementation of Pakki Nali Gali Yojana and he has been further directed to submit his report every day until 5 P.M. in this regard.*

*(II) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the letter dated 22.07.2017 issued by the Respondent no. 7 and contained in his memo no. 1025 dated 22.07.2017 whereby and where under the Respondent no. 7 has been pleased to communicate a copy of the order dated 21.07.2017 of the Respondent no. 5 to all Panchayat Secretaries and all Mukhiyas of the Block for their information and necessary action.*

*(III) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the letter dated 25.07.2017 issued by the Respondent no. 7 and contained in his memo no. 1061-2 dated 25.07.2017 whereby and where under he has been pleased to direct all the Mukhiyas and Panchayat Secretaries of his Block for transfer of 60% of Gram Panchayat's fund to the account of the*



Ward Committee until 26.07.2017 for the implementation of Mukhya Mantri Gramin Gali Nali Pakkikaran Nischay Yojana.

*(IV) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the letter dated 19.07.2017 issued by the Respondent no. 6 and contained in his memo no. 737-2 dated 19.07.2017 whereby and where under he has been pleased to direct all Mukhiyas and all the Panchayat Secretaries of his Block for transfer of Gram Panchayat's fund to the account of the Ward Implementation and Management Committee to begin with the work of Mukhya Mantri Gramin Nali Pakkikaran Nishchay Yojana on the ground that:-*

(a) Funds of the Panchayat can's be diverted to any other account which under the law has been put on the disposal of the Panchayat:

(b) Even the Bihar Panchayat Raj (Amendment) Ordinance, 2017 and the Rules framed there under does not contemplate for such transfer until the other formalities is complete and administrative approval of the decisions taken by the Ward Implementation and Management Committee is granted by the Panchayats.

(V) 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. The main issue involved in the case has been spelt out in detail at paragraphs no. 3 and 4 of the order dated 11.08.2017, which read as under:

“3. The issue was not complex. The grievance of the petitioner was that, in terms of the direction of the State Government itself contained in Memo No. 5752 dated 30.06.2017 of the Panchayati Raj Department, relating to guidelines for implementation of the Mukhya Mantri Gramin Gail-Nali Pakkikaran Nischay Yojana, a procedure is prescribed with regard to implementation of the scheme in Clause 6.2 of the said guidelines, which were not being implemented in the manner required and rather a stage which had to come after following certain other procedures was directed to be taken at the very beginning, relating to transfer of 60% of the funds earmarked for such schemes to the Ward Implementation and Management Committees in their Bank accounts. Today also, learned counsel for the State is neither in a position to clarify the situation nor is able to controvert the fact that as per the Government guidelines itself, certain procedure has been prescribed in terms of Clause 6.2 with regard to implementation and planning of the scheme as well as the transfer of the funds. He prays for further time.

4. In view of the fact that there is pressure exerted



on the Gram Panchayat for transfer of such funds to the Ward Committees on a day to day basis which, prima facie appears to be erroneous as the same can only be done after the stage-wise completion of formalities and procedure prescribed under Clause 6.2 of the said guidelines is fulfilled, and which does not seem to have been followed, the Court directs that until further orders, the authorities shall not coerce or force the Gram Panchayat to transfer such funds till the time the guidelines and the procedures and stages enumerated in Clause 6.2 of the aforesaid guidelines are adhered to, in accordance with law.”

4. A counter affidavit has been filed on behalf of respondents no. 2 and 3 in which at Annexure-B is copy of Letter No. 6989/ Pa. Ra. dated 09.08.2017 written by the Officer on Special Duty of the Panchayati Raj Department to the District Magistrate, Madhepura by which letter written by the Block Development Officer, Singheshwar dated 25.07.2017 has been held not to be in conformity with the guidelines given by the Department and thus, it has been directed that the said order be withdrawn. It would be relevant to indicate here that the aforesaid letter of the Block Development Officer, Singheshwar dated 25.07.2017 was in pursuance of the letter written by the Department bearing Memo No.



5752 dated 30.06.2017 which was followed up by the letter of the District Magistrate, Madhepura contained in Memo No. 719 dated 12.07.2017.

5. Learned counsel for the State submitted that in such view of the matter, when Letter No. 6989 dated 09.08.2017 clearly indicates that it was the direction of the State Government in the Department of Panchayati Raj, the grievance of the petitioner stands redressed and further that once such letter has been sent to the District Magistrate, Madhepura, it is, but natural, that consequences shall follow and the direction issued in the letter of the District Magistrate dated 12.07.2017 as well as the follow-up direction of the Block Development Officer, Singheshwar in his letter dated 25.07.2017 as well as all similar directions issued by all Block Development Officers in the district of Madhepura, shall become ineffective.

6. In view thereof, the writ petition stands disposed off with the observation that the District Magistrate, Madhepura shall ensure that the communication of the Department contained in the aforesaid letter dated 09.08.2017 is implemented forthwith.

7. For the sake of convenience, let the petitioner serve a copy of this order on respondents no. 4, 6 and 7 within one week from today.

8. Before parting with the order, the Court would like to



record its appreciation for the efforts of learned counsel for the State
in making the authorities take corrective measures.

(Ahsanuddin Amanullah, J)

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