

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11613 of 2016

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Gupteshwar Sah, S/o - Shri Kishun Sah, resident of village + P.O. - Shahpur, P.S. - Shahpur, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development, Government of Bihar, Patna.
2. The Principal Secretary, Department of Urban Development, Government of Bihar, Patna.
3. The Nagar Panchayat, Shahpur, Bhojpur, represented through its Executive Officer, the Nagar Panchayat, Shahpur, Bhojpur.
4. The Executive Officer, the Nagar Panchayat, Shahpur, Bhojpur.
5. Smt. Babita Devi, Chairperson, Nagar Panchayat, Shahpur, Bhojpur.
6. Shri Gayanath Yadav, Dy. Chairperson, Nagar Panchayat, Shahpur, Bhojpur.
7. Shri Shardanand Singh, Member, Nagar Panchayat, Shahpur, Bhojpur.
8. Shri Basistha Prasad, Member, Nagar Panchayat, Shahpur, Bhojpur.
9. Mrs. Asha Devi, Member, Nagar Panchayat, Shahpur, Bhojpur.
10. Mrs. Sanju Pandey, Member, Nagar Panchayat, Shahpur, Bhojpur.
11. Smt. Seema Singh, Member, Nagar Panchayat, Shahpur, Bhojpur.
12. Shri Ramesh Ram, Member, Nagar Panchayat, Shahpur, Bhojpur.
13. Md. Mukhtar, Member, Nagar Panchayat, Shahpur, Bhojpur.
14. The Sub Divisional Officer, Jagdishpur, Bhojpur.

All are members of Nagar Panchayat, Shahpur, Bhojpur, represented through its Executive Officer, Nagar Panchayat, Shahpur, Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sri Prakash Srivastava, Advocate
For the State	:	Mr. Upendra Pratap Singh, A.C. to S.C. 4
For the Respondents No. 3 & 4 :	:	Mr. S. B. K. Mangalam, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 03-05-2017

Heard Mr. Shri Prakash Srivastava, learned counsel for
the petitioner; Mr. Upendra Pratap Singh, learned AC to SC-4 for the
State and Mr. S.B. K. Mangalam, learned counsel for the respondents
no. 3 and 4.

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



“I. To issue a writ in the nature of mandamus commanding the Respondents No. 2 to ensure an enquiry with respect to the work assigned to the Respondent No. 5, because the Respondent No. 5, not only violated and circumvented the mandate of Sections 22 & 30 of the Bihar Municipal Act, 2007 rather also, in complete deliberation of the provisions of 138 (h) (v) of the Bihar Finance Rules, so it is respectfully submitted that the Respondent No. 2 be directed to ensure appropriate enquiry and after enquiry take appropriate action in terms of Sections 25 (2) of the Bihar Municipal Act, 2007 against the Respondent No. 5.

II. To issue a writ in the nature of mandamus commanding the Respondents No. 2 to take appropriate action in terms of Section 25 of the Bihar Municipal Act, 2007 as the Respondent No. 5, after her assignment to the post of Chairperson, failed to discharge her duties in terms of Sections 22 & 30 of the Bihar Municipal Act, 2007.

III. To ask an explanation-cum-show cause from the Respondent No. 4, that being Executive Officer of the Respondent No. 3 what sort of action or communication, made at his level for constitution of Standing Committees and further for utter deliberation of the procedure mandated under provisions 138 (h) (v) of the Bihar Finance Rules.

(IV). Any other relief or reliefs.”

3. However, in terms of various orders passed earlier, it appears that the Empowered Standing Committee, though having been constituted, due to non administration of oath to such members, the functioning is being hampered. Further, as has been submitted by learned counsel for the petitioner and attention drawn of the Court to various materials on record including annexures in the writ petition, it appears that the functioning of Shahpur Nagar Panchayat is not in accordance with the prescribed procedures.



4. In view of the aforesaid, the writ petition, with consent of the parties, stands disposed off in the following terms:

(i) The respondents no. 2 and 14 shall ensure that the Empowered Standing Committee, already constituted, is made fully functional by ensuring that all members are administered oath, without any delay.

(ii) In view of various materials indicating that there may be deviation and violation of the procedure prescribed in law for execution of works, including disbursement of funds, the respondent no. 2 is directed to get an enquiry conducted with regard to the manner and mode in which schemes have been sanctioned and payment made since taking over of office by the respondent no. 5 as Chairman of the Shahpur Nagar Panchayat and based on such report, initiate appropriate action. It is made clear that such enquiry shall be conducted in accordance with law, after due notice to all concerned and after giving them proper opportunity of being heard.

5. Let the petitioner also serve a copy of the order on respondents no. 2 and 14, to facilitate and expedite matters.

(Ahsanuddin Amanullah, J.)

P. Kumar

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