

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17304 of 2008

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Babu Saheb Rai, Son of Sri Kalyan Rai @ Rabindra Rai, resident of village-Karhar, Post Office-Chunni, Police Station-Madhepur, District- Madhubani.

.... Petitioner

Versus

1. The State of Bihar.
2. Secretary, Department of Rural Development, Govt. of Bihar, Patna.
3. Director, Department of Panchayati Raj, Bihar, Patna.
4. District Magistrate, Madhubani.
5. Sub-Divisional Officer, Jhanjharpur, District- Madhubani.
6. Block Development Officer, Madhepur, District- Madhubani.
7. Sarpanch, Gram Kachahari, Karhar, Madhepur Block, District- Madhubani.
8. Durga Devi, wife of not known to the petitioner, at present Sarpanch, Gram Kachahari Karhara, district- Madhubani.
9. Sarvmani Singh 'Suman', son of Sri Tarkeshwar Prasad Singh, resident of village- Kurso, Police Station-Madhepur, district-Madhubani.
10. Shankar Kumar Choudhary, son of Sri Ashok Kumar Choudhary, resident of village-Kurso, Police Station-Madhepur, district- Madhubani.
11. Bhaskar Kumar, son of Sri Arbind Kumar, resident of village-Kurso, Police Station-Madhepur, district-Madhubani.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Adv.
For the State : Mr. Indeshwari Prasad, A.C. to G.A.-3
For Respondent no.9 : Mr. Shashi Bhushand Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-11-2017

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the private respondent no.9.

This matter relates to appointment of Secretary, Gram



Kachahari, Karhara, where four persons have applied. The merit list was prepared, in which respondent no.9 was at serial no.1. Admittedly, the petitioner was at serial no.4 in the merit list, but the Sarpanch, Gram Kachahari, Karhara, illegally appointed the petitioner though he was standing at serial no.4, leaving the persons who were at serial nos. 1, 2 and 3. Thereafter, action has been taken to rectify the illegality and the person who was at serial no.1 has been appointed.

Two points have been raised by the learned counsel for the petitioner; first the Block Development Officer has no jurisdiction to pass the impugned order and another petitioner was not given any notice before passing the impugned order.

Admittedly, the petitioner was at serial no.4 in the merit list and the Sarpanch has illegally appointed him leaving the persons who are at serial nos. 1, 2 and 3, so the question of giving any notice will be a useless formality in view of the admitted position and so far the power of the Block Development Officer is concerned, this Court is not examining the same as admittedly illegality has been committed and later on, rectified by the authority. If this Court interferes in the matter, it amount to perpetuating to an illegality, which cannot be a moto for exercising the power of judicial review.



In such view of the matter, this Court does not find any merit in this writ application. Accordingly, this writ application is dismissed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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