

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.183 of 2015

IN

Civil Writ Jurisdiction Case No. 9576 of 2014

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Jyotish Yadav Son of Sri Prahlad Yadav resident of village- Punnakh,
P.O- Murhan Hat, P.S- Goradih, District- Bhagalpur.

.... Appellant

Versus

1. The State of Bihar through the Director Panchayat Raj Department ,
the Government of Bihar, Patna.
2. The Principal Secretary, Panchayat Raj Department , Government of
Bihar, Patna.
3. The District Panchayat Raj Officer, Bhagalpur.
4. The Regional Deputy Director, Bhagalpur Division Bhagalpur.
5. The District Magistrate, Bhagalpur,
6. The Deputy Development Commissioner, Bhagalpur.
7. Akchay Kumar Mandal Son of Sri Pryag Mandal. resident of village-
Mohanpur, P.S.Goradih, District- Bhagalpur.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Manohar Prasad Singh, Advocate

For the Respondent/s : Mr. S.K. Sharma, AC to AAG-III

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 19-06-2017

Heard learned counsel for the appellant and
learned counsel for the respondents.

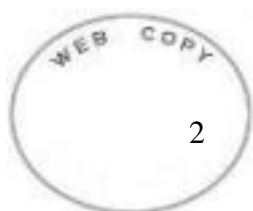
One of the reason why this Court is not
willing to interfere with the impugned order dated
18.02.2014, passed by learned Single Judge, is that he
has found that that the procedure within the framework of
the rule was followed by the Mukhiya with regard to
purchase of solar lamps yet it formed the basis for his
removal by the order passed by Principal Secretary,



Panchayati Raj Department while exercising power vested with him under Section 18(5) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act') and the Rules.

The whole process was initiated at the instance of the present appellant. Since, the law has already been set in motion and even a criminal case has been instituted against him. The exercise for removal has lost its meaning because he has lost the present round of election. This Court will therefore not interfere with the impugned order any further. The object behind initiation of such proceeding has been achieved by the present appellant and the erstwhile Mukhiya still has to answer for his indiscretion, if any, which has been alleged to have been committed by him while holding the post of Mukhiya of the Gram Panchayat Raj, Mohanpur Block, Goradih in the District of Bhagalpur.

The apprehension expressed by the learned counsel for the appellant is that the finding given by the learned Single Judge in the writ application may have reflections and will interfere with the criminal proceeding pending against the ex-Mukhiya is a misplaced kind of apprehension, because the criminal proceeding will be decided on the basis of the evidence which will be led



during the trial and not on the observations made by the High Court in a totally different proceeding, which related to a discretion exercised by the Principal Secretary under Section 18(5) of the Act.

Thus, we find no merit in this Letters Patent Appeal. It is dismissed.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/N.A.F.R.

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