

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4273 of 2017

=====

Madhubani Zila Mukhiya Sangh through its Chairman, Arun Kumar Jha, Son of Sushil Jha, resident of Village Sundarpur Bhithi, P.S. Rahika, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The District Panchayat Raj Officer, Madhubani.
5. The District Planning Officer, Madhubani.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Murari Narain Chaudhary, Advocate
Mr. Vijay Kumar, Advocate
Mr. Mohit Shrivastava, Advocate
For the Respondent/s : Mr. Kumar Alok, SC-7
Mr. Dr. Raj Kumar Singh, AC to SC-7

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-05-2017

Heard learned counsel for the parties.

2. The writ petition has been filed for the following

reliefs:

“i.) *For quashing of instructions, issued by the Principal Secretary, Department of Panchayati Raj (Respondent no. 2) vide Memo No. 6278 dated 23.07.2016 as well as Memo No. 6846 dated 25.10.2016, whereby and whereunder Government instructions have been issued regarding implementation of Mukhya Mantri Gramin Raj Pay Nischay Yojna and Mukhya Mantri Gramin Gali Nali Pakkikaran Nischay Yojna respectively, on the ground that if vide 73rd Constitutional Amendment, the Panchayats have been conferred with the powers, authority and responsibilities of the implementation of Schemes*



for economic development and social justice as may be entrusted to them including those, in relation to the matters enlisted in the eleventh Schedule and this Schedule of the Constitution includes, drinking water, roads, culverts, bridges, ferries, waterways, etc. and the State Government is not competent to issue any directions, as to how the Panchayats would utilize the funds made available to them on the recommendations of Finance Commission.

- ii.) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the state of Bihar to allow the Panchayats to function as an Institution of Self Government as enshrined under Article 243-G of the Constitution of India, by which a duty has been cast upon the State Government to endow the Panchayats with such powers and authorities, as may be necessary to enable them to function as an Institution of Self Government, more particularly in respect of the responsibilities cast upon the Panchayats by the Eleventh Schedule of the Constitution.*
- iii.) For a declaration that since item nos. 11 and 13 covers the drinking water, roads, culvert, bridges, ferries, water ways etc. it is the domain of the Panchayat to decide, as to how, they would implement these Schemes in their respective Panchayats from the funds available and the State Government does not have any jurisdiction to encroach upon the powers of Panchayat, which has been conferred upon it under Article 243-G read with the Eleventh Schedule of Constitution.*
- iv.) For a declaration that if Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the Gram Panchayat Act) envisages for constitution of Standing Committees for effective discharge of its functions as contemplated by the Eleventh Schedule of constitution read with Section 22 of the Gram Panchayat Act, the State Government is not competent to constitute any other Committee and that too by the impugned instruction to*



encroach upon the power and function of Standing Committees constituted under the Act.

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. At the very outset, learned counsel for the petitioner submitted that the issue has already been settled by the Division Bench by order dated 17.05.2017 passed in C.W.J.C. No. 19591 of 2016 and analogous cases.

4. Learned counsel for the State does not dispute the position.

5. In view thereof, the writ petition stands disposed off in terms of the aforesaid order dated 17.05.2017.

(Ahsanuddin Amanullah, J)

P. Kumar

AFR/NAFR	
U	

