

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.326 of 2015

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1. Soni Parveen Daughter of Ayub Ansari Resident of village - Kundla, P.O. Rajauli, P.S. Rajauli, District - Nawada, At Present working on the Post of Nayay Sachiv, Gram Kutchahari, Rajauli West, District - Nawada
 2. Navlesh Kumar Son of Bhagwat Sharma Resident of village - Salempur, P.O. Andharwari, P.S. Rajauli, District - Nawadah, At Present working on the post of Nysy Sachiv, Gram Kutchahari Andharwari, District - Nawadah

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, New Secretariat, Patna
2. The Director, Directorate of Panchayati Raj, New Secretariat, Patna
3. The District Officer, Nawadah/District Magistrate, Nawada
4. The District Panchayat Raj Officer, Nawadah
5. The Block Development officer, Rajauli, Nawadah
6. The Block Panchayat Raj Officer, Rajauli, Nawadah
7. The Sarpach, Gram Kutchahari, Rajauli West, District - Nawadah
8. The Surpanch, Gram Kutchahari, Andharwari, District - Nawadah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sinha, Advocate
For the State : Mr. Md. Nadim Seraj, GP 5
Mr. Dharendra Kumar, AC to GP 5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 05-03-2018

Heard counsel for the petitioners and the respondents.

2. It is the petitioners' case that they were appointed as Gram Katchahari Sachiv. The petitioner no. 1 was posted at Rajauli West whereas petitioner no. 2 was posted at Andharwari, P.S. Rajauli District Nawadah.

3. Petitioner No. 1 has placed on record the document relating to his appointment on contract dated 31.12.2012 (Annexure 14) whereas petitioner no. 2 has placed on record the document



relating to his appointment dated 30.11.2011 (Annexure 8).

4. Petitioners have approached this Court since their fixed contract amount of Rs. 2000/- per month was suddenly stopped with effect from April, 2013.

5. The respondents initially filed counter affidavit on 13.02.2017 wherein stand has been taken that when illegality and irregularity was noticed in the appointment process of the Nayay Sachiv by the District Magistrate, an explanation has been asked from the then Block Development Officer, Rajauli. It is the pleadings of the respondents that since the issue was being looked into, the petitioners' pay for their contractual service has been stopped.

6. Another supplementary counter affidavit has been filed in Feb, 2018 wherein again the same stand has been reiterated and it has been stated that the Sarpanch, in abusing his official capacity, has kept the petitioners without any jurisdiction and therefore, the question of payment of honorarium to them does not arise.

7. It is also stated in the supplementary counter affidavit that if the petitioners are discharging the duties at their respective Gram Kutcheries then it is incumbent upon the concerned Sarpanch to inform them in this regard.

8. By the initial counter affidavit filed in February, 2017 the respondent- State has brought on record a notice dated 17.12.2012



whereby they have issued show cause notice to the Sarpanch but till date no action has been taken against the Block Development Officer or the Sarpanch against whom there is allegation of misusing of their power as it emerges from the pleadings on record.

9. Since the petitioners have been discharging their duties, they cannot be denied payment of their fixed contract payment/honorarium at the rate on which their services were engaged till such time they are not removed by the competent authority in exercise of power in accordance with law.

10. In view of the aforesaid position, the petitioners would be entitled to payment of their fixed contract amount/honorarium at the rate of Rs. 2000/- per month in which their appointments were made, from April, 2013 till the time they are removed in accordance with law. Let such payment be made to the petitioners within two months from the date of receipt/production of a copy of this order. This order will not come in the way of the respondents to take appropriate action against the petitioners in accordance with law.

11. It is submitted on behalf of the State that the said amount will have to be paid owing to illegal exercise of jurisdiction by the Sarpanch and the Block Development Officer. If there be any finding to that extent, in accordance with law, it will be open to the



respondent authority to realize the amount from the official found responsible.

12. The writ petition is allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.03.2018
Transmission Date	

