

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.685 of 2018
In
Civil Writ Jurisdiction Case No.6838 of 2017

Ramakant Kumar son of Tribhuwan Sharma, R/o village- Ahiyapur (Chotki)
Ward No. 1, P.S.- Arwal, District- Arwal Appellant

Versus

1. The State Of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna
2. The Director, Nagar Palika Administration -cum- Addl. Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna
3. The Dy. Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna
4. The Under Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna
5. The District Magistrate, Arwal, District- Arwal
6. The Sub-Divisional Officer, Arwal, District- Arwal
7. The State Election Commission through its Commissioner, Sone Bhawan, 3rd Floor, Veerchand Patel Marg, Patna
8. Nityanand Singh, son of Late Bhagwan Singh, R/o village- Khankulipur, P.S. & District- Arwal

... .. Respondentss

Appearance :

For the Appellant/s	:	Mr. P. K. Shahi, Sr. Advocate Mr. Shambhu Nath, Advocate
For Respondent No. 7	:	Mr. Amit Shrivastava, Advocate Mr. Girish Pandey, Advocate
For the State	:	Mr. Ram Subhas Singh, AC to AAG 7
For Respondent No. 8	:	Mr. Bindhyahal Singh, Advocate Mr. Ranjeet Choudhary, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

5 18-07-2018 Challenge in the present Letters Patent Appeal is to

the order dated 09.05.2018 passed by the learned Writ Court in



Civil Writ Jurisdiction Case No. 6838 of 2018 which is apparently an interim order. The learned Writ Court, after hearing the learned counsel for the parties, took a prima facie view that from a reading of Sub-Section 5 of Section 25 of the Bihar Municipal Act, 2007 (hereinafter referred to as the Act), it would appear that a Chief Councillor or Deputy Chief Councillor may be disqualified for the remaining period of tenure, if the acts of misconduct and abuse of position is in the current tenure and such ground for disqualification cannot date back to the previous tenure of the petitioner.

2. The learned Writ Court found that the issue involved in the case being important, the matter would require further hearing and thereafter, the writ application has been admitted, Rule has been made returnable within three months and in the meantime the impugned order dated 04.04.2018 as contained in Annexure-P/8 to the writ application has been stayed.

3. A perusal of Annexure- P/8 to the writ application would show that the same is an order passed by the Principal Secretary, Urban Development and Housing Department, Government of Bihar removing the petitioner from the post of Chief Councillor, Nagar Parishad, Arwal for his alleged



involvement in financial irregularities and dereliction in duties.

It is this order as contained in Annexure-P/8 is the bone of contention in pending writ application.

4. Mr. P. K. Shahi, learned Senior Advocate representing the appellant who is an intervenor in the writ application submits that the writ petitioner has been removed from the post of Chief Councillor for his proven case of misconduct and misdeeds by violating the established procedure of law and therefore, the learned Writ Court is not justifying in staying the order of his removal during the pendency of the writ application.

5. On the other hand, Mr. Bindhyachal Singh, learned Advocate representing the writ petitioner submits that the present appellant has no locus standi to maintain the Letters Patent Appeal before this Court. Referring to the judgment of the Hon'ble Supreme Court in the case of **Ravi Yashwant Bhoir Versus District Collector, Raigad and Others** reported in **2012 (4) Supreme Court Cases 407** and placing reliance on paragraph 58 of the said judgment, learned counsel submits that the present appellant is a stranger having no legal grievance with the impugned interim order of the learned Writ Court. It is submitted that it is only a person who is likely to suffer harm or



injury because of the interim order could have raised a grievance against the order impugned in the present appeal. It is submitted that the appellant is not having even a remote interest with the lis and therefore, cannot be allowed to agitate the matter in appeal before this Court. Learned counsel further submits that the learned Writ Court has presently taken a prima facie view of the matter and there being certain legal issues involved in the matter, the writ is still pending for consideration, therefore, at this stage, no interference with the impugned order is required to be made.

6. At this stage, Mr. P. K. Shahi, learned Senior Advocate submits that since the writ application has been admitted, it is desirable that the case may be heard and be disposed of as early as possible.

7. Having heard learned Senior Counsel representing the appellant and learned counsel representing the petitioner and after going through the relevant provisions which have been discussed by the learned Writ Court, we find that the Writ Court has discussed the matter with reference to the facts and relevant provisions of the Act and then has taken a prima facie view of the matter while admitting the writ application. We do not find any reason to interfere with the interim order passed by the



learned Writ Court that too at the instance of the present appellant whose intervention application in the writ petition is still to be considered by the learned Writ Court.

8. We would put paragraph 58 of the judgment of the Hon'ble Apex Court in the case of **Ravi Yashwant Bhoir** (*Supra*) hereunder for a ready reference:

“58. Shri Chintaman Raghunath Gharat, ex-President was the complainant, thus, at the most, he could lead evidence as a witness. He could not claim the status of an adversarial litigant. The complainant cannot be the party to the lis. A legal right is an averment of entitlement arising out of law. In fact, it is a benefit conferred upon a person by the rule of Law. Thus, a person who suffers from legal injury can only challenge the act or omission. There may be some harm or loss that may not be wrongful in the eye of the law because it may not result in injury to a legal right or legally protected interest of the complainant but juridically harm of this description is called *damnum sine injuria*.”

9. This Letters Patent Appeal, in our opinion, has no merit and it is dismissed accordingly.

10. We, however, restrain ourselves from making any observations on the issues involved in this case and the dismissal of this Letters Patent Appeal is certainly not a



reflection of any consideration on the issues pending for
consideration before the learned Writ Court.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

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