

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1063 of 2020

Geeta Devi (female), aged about- 47 years, wife of Sri Rampravesh Mahto, resident of Geeta Nagar Colony, Ward No.6, Bakhari, P.O. and P.S.- Bakhari, District- Begusarai, presently Chief Councilor, Nagar Panchayat, Bakhari, P.O. and P.S.- Bakhari, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Principal Secretary, Vigilance Department, Government of Bihar, Patna.
4. The Deputy Secretary, Vigilance Department, Government of Bihar, Patna.
5. The Joint Secretary (Legal), Vigilance Department, Government of Bihar, Patna.
6. The Additional Secretary-cum- Deputy Director, Urban Development and Housing Department, Government of Bihar, Patna.
7. The District Magistrate, Begusarai, District- Begusarai.
8. The Executive Officer, Nagar Panchayat, Bakhari, P.O. and P.S. Bakhari, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. S. B. K. Mangalam, Advocate
For the Respondent/s : Mr. Ravish Chandra, AC to SC-6

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 18-01-2020

Heard learned counsel for the petitioner and learned
AC to SC 6 for the State.

2. The petitioner has moved the Court for the
following reliefs:

*“(I) For issuance of an appropriate in the nature of **CERTIORARI** for quashing the letter dated 25.01.2019 issued under the signature of the Respondent no.4 and contained in his letter no.465 dated 25.01.2019, whereby and where under the Respondent no.4 has been pleased to request the Respondent no.2 to take action against the erring officials of Bakhari*



Nagar Panchayat in view of the enquiry report of the Technical Cell of the Vigilance Department on the ground that in view of the provisions contained under Section 66 of the Bihar Municipal Act, 2007, the Vigilance Department has no authority either to make inspection of the records of the Municipality nor it has any authority under the law to submit its report for action against the officials of the Municipality.

- (II) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the letter no.2623 dated 22.11.2019 issued under the signature of the Respondent no.6 and addressed to the Respondent no.7 whereby and where under he has been pleased to call upon the Respondent no.7 to furnish the list of responsible public representatives, Officers and employees of the Nagar Panchayat for action against them in view of the report of the Vigilance Department.*
- (III) For a declaration that in view of the provisions contained under Section 66 read with Section 25(5) of the Bihar Municipal Act, 2007 (hereinafter referred to as the Municipal Act), no proceeding under Section 25(5) of the Municipal Act can be initiated against the petitioner on the basis of the report submitted by the Vigilance Department and, therefore, if any action is taken by the Urban Development Department and Housing Department against the petitioner under Section 25(5) of the Municipal Act, it would be illegal in the eye of law.*
- (IV) 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. The grievance of the petitioner is that pursuant to a vigilance enquiry made with regard to the working of the Nagar



Panchayat, Bakhari, in the district of Begusarai, a report was submitted to the Urban Development and Housing Department, Government of Bihar, seeking action against various persons. The same was forwarded to the District Magistrate, Begusarai, by the department for sending names of all persons, including public representatives, which would include the petitioner, who is the sitting Chief Councillor of the Nagar Panchayat, so that appropriate action be taken.

4. Learned counsel for the petitioner submitted that the law does not contemplate such action by the State Government/authority. It was submitted that the only power of the State Government is under Section 25(5) of the Bihar Municipal Act, 2007 (hereinafter referred to as the 'Act'). It was submitted that for the purposes of proceeding under such provision/power the mandatory requirement is that an enquiry has to be made by the *Lok Prahari* to be appointed under Section 45 of the Act, who under Section 66 of the Act, would make the enquiry. The Government thereafter, either on the report of the *Lok Prahari* or of an officer of the rank as contemplated under Section 66 of the Act, has to then form an opinion to proceed in the matter and only thereafter the stage will come when the persons concerned, including the public representatives, would be required to be given notice to show



cause. It was submitted that in the present case straightaway the report of the Vigilance asking for action and the department/government also forwarding it to the District Magistrate, Begusarai, for sending the names of such persons including public representatives is totally unwarranted, beyond jurisdiction and patently illegal. For such proposition, learned counsel referred to an unreported decision of this Court in ***CWJC No. 10912 of 2016*** in the case of ***Nazia Begum Vs. State of Bihar and others*** dated 23.01.2017.

5. Learned counsel for the State fairly submitted that in view of the aforesaid judgment, the authorities are required to take action in accordance with law as has been clarified by the Court in such order.

6. Having regard to the aforesaid, the writ petition stands disposed off holding that no action can be taken against the petitioner based on such vigilance report without following the procedure as has been held to be mandatory in the aforesaid judgment in the case of ***Nazia Begum*** (supra).

(Ahsanuddin Amanullah, J)

J. Alam/-

AFR/NAFR	
U	

