

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8070 of 2020

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Bimla Devi aged about 40 years (female) Wife of Ganaur Sada @ Ganaur Sadai R/o Village-Bhatehi Ser (Dihuli Ser), P.S.-Benipatti, District-Madhubani at Present Mukhiya Gram Panchayat Raj Benipatti, Block-Benipatti, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Monitoring Officer, Panchayati Raj Department, Government of Bihar, Patna.
4. The Collector, Madhubani.
5. The District Panchayat Raj Officer, District-Madhubani.
6. The Block Development Officer, Block-Benipatti, District-Madhubani
7. The Block Panchayat Raj Officer, Benipatti, District-Madhubani.
8. The Superintendent of Police, Madhubani
9. The Director, State Forensic Science Laboratory, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Jha, Advocate
For the State	:	Mr. Kumar Alok, SC 7
	:	Mr. Vijai Bharti, AC to SC 7

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-12-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Ashok Kumar Jha, learned counsel for the petitioner and Mr. Kumar Alok, learned Standing Counsel 7 along with Mr. Vijai Bharti, learned AC to SC 7, for the State.



3. The petitioner has moved the Court for the following reliefs:-

“For issuance of a writ in the nature of certiorari for setting aside the Letter dated 23.07.2020 and 27.07.2020 contained in Letter Nos. 4579 and 1046 issued under the signature of Respondent Nos. 3 and 5 by which the petitioner has been removed from the post of Mukhiya in terms of Section 18(5) of the Panchayati Raj Act without considering the show cause and the plea taken by the petitioner and further for issuance of a writ in the nature of Mandamus commanding the respondent authorities to not disturb the petitioner in discharging her duty as elected Mukhiya of Gram Panchayat Raj Benipatti and further for any other relief/reliefs for which the petitioner is entitled to in the facts and circumstances of the case.”

4. The short point canvassed by learned counsel for the petitioner was that she has been visited with the extreme order of removal from the post of Mukhiya of Benipatti Gram Panchayat in the District of Madhubani on the basis of allegation that nine cheques signed by her and the Panchayat Secretary for a total amount of Rs. 79 lakhs had been illegally encashed in violation of all statutory provisions and instructions.

5. Learned counsel submitted that the entire allegation revolves around fraudulent encashment through those nine cheques on which the petitioner also is said to have signed, but in reality the Panchayat Secretary is the custodian of the records and



with whom all documents, including the cheque-book and the pass-book, are kept and he has himself admitted that the cheques were stolen by another co-accused who had developed close relationship with him and used to come to his house, and had stolen those cheques and also that the signatures were forged and fabricated. It was submitted that the petitioner in her reply to the show cause notice, both before the District Magistrate, Madhubani as well as the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar had taken a categorical stand that she was ready for the verification of the signatures on the cheques by any expert. It was submitted that despite that, only on unfounded presumption that the cheques which had fraudulently been encashed also bore the signatures of the petitioner, she has been removed from her post. It was submitted that the petitioner had further indicated that the bank officials honouring the cheques when the signatures were forged, indicated a conspiracy at the level of the bank also. However, it was submitted that in a matter in which the petitioner is absolutely innocent, as there was no occasion for her to go through the updated pass-book or be aware of nine cheques being stolen from the cheque-book by which, after forging her signatures, money was withdrawn, she has been punished in a manner where the basic principles of fair play and



natural justice have been violated in the sense that the sole defence of the petitioner of her signatures being forged were required to be scrutinized by an expert which has not been done despite specific request by the petitioner.

6. On earlier occasion, learned counsel for the State had fairly stated that he would be required to take instructions. Today, it is not disputed by him that the petitioner had made such request and that the authorities have not got the signatures examined by an expert. Thus, he submitted that without accepting the innocence of the petitioner, at this stage, the authorities were open to the matter being remanded for fresh consideration after getting the signatures on the so-called fraudulently withdrawn cheques examined by an expert.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the writ petition stands disposed off in the following agreed terms:-

(a) The orders impugned, by which the petitioner has been removed from her post of Mukhiya of Benipatti Gram Panchayat in the district of Madhubani passed by the respondent no. 2 dated 23.07.2020 and the consequential order passed by the respondent no. 5 dated 27.07.2020, stand set aside. The matter is remanded to



respondent no. 2 for passing fresh order after undergoing the following exercise.

(b) The Superintendent of Police, Madhubani shall file a petition before the Court concerned, if the original cheques are lying in the custody of the Court, for being given legible certified copies of the same. The same shall be complied with, in ten days from today and the Court shall provide such copies to the Superintendent of Police, Madhubani or his authorized representative within four working days of such application being filed and moved by the learned Additional Public Prosecutor concerned. Alternatively, if it transpires that the original cheques are in the custody of the District Police, the Superintendent of Police, Madhubani shall get legible copies made and attest the same. This shall be done within two weeks from today.

(c) The petitioner shall appear before the Superintendent of Police, Madhubani on 17th December, 2020 at 11.30 A.M. in his official chamber and put her signature on 10 separate sheets of paper in his presence. The Superintendent of Police, Madhubani shall attest the same.



(d) The Superintendent of Police, Madhubani shall also get the records of the concerned Gram Panchayat and will get legible copies of five admitted signatures made by the petitioner available on the official documents so as to ensure that she does not sign in a different way while giving specimen signatures. The same shall also be attested by him. He shall also obtain legible copy of the petitioner's signature available with the bank concerned of the account in question which shall be duly attested by the Branch Manager of the Bank. Such exercise shall also be completed within two weeks from today.

(e) Upon the same being done, the Superintendent of Police, Madhubani shall send the certified copy/attested copies, as the case may be, of the nine cheques in question, the ten specimen signatures taken on ten different papers duly attested, the attested five copies of her signature from the official Gram Panchayat records and the attested copy of her signature in the bank account, to the State Forensic Laboratory, Patna and the Director of the State Forensic Science Laboratory shall ensure that within three weeks from receipt of such request from the Superintendent of Police, a report is submitted



after comparing the signatures of the petitioner on all the aforesaid documents, with specific opinion with regard to whether the signatures of the petitioner on the nine cheques in question were made by her.

(f) The Director, State Forensic Science Laboratory, Patna, shall send such report directly to the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, respondent no. 2.

8. For the purpose of convenience, the Superintendent of Police, Madhubani is added as respondent no. 8 and the Director, State Forensic Science Laboratory, Bihar, Patna as respondent no. 9.

9. Learned SC 7 accepts notice on behalf of newly added respondents 8 and 9 also.

10. Upon receipt of the report, the respondent no. 2 shall give one opportunity of hearing to the petitioner and, thereafter, a detailed and reasoned fresh order shall be passed by the respondent no. 2, preferably within two months from the date of receipt of the Forensic Report.

11. It goes without saying that upon the orders impugned being set aside, the petitioner stands reinstated as Mukhiya of Benipatti Gram Panchayat in the District of Madhubani.



12. It shall be open to the petitioner to file any further reply to the show cause notice, if so desired, within the time fixed by the respondent no. 2.

(Ahsanuddin Amanullah, J)

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