

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4357 of 2020

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Mohammad Neyaj Amhad S/o Anavarul Haque, R/o Vill.- Nanpu, P.s.- Nanpur, District- Sitamarhi, Presently elected member for the Zila Parishad (Block-Nanpur, 35), District- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Panchayati Raj Deptt., Govt. of Bihar, Patna
2. The Joint Secretary, Panchayati Raj Deptt., Govt. of Bihar, Patna
3. The Secretary, Department of Rural Development, Govt. of Bihar, Patna
4. The Commissioner, Tirhut Division, Muzaffarpur, District- Muzaffarpur
5. The District Magistrate, District- Sitamarhi
6. The Block Development Officer, Blok- Nanpur, District- Sitamarhi
7. The Civil Engineer (J.E.), Block- Nanpur, District- Sitamarhi
8. The Mukhiya, Gram Panchayat Raj, Nanpur (Uttari), Block- Nanpur, District- Sitamarhi
9. Teh Ward Member of Ward No. 1 Gram Panchayat Raj, Nanpur (Uttari), District- Sitamarhi
10. The Ward member of Ward no. 4 Gram Panchayat Raj, Nunpur (Uttari), District- Sitamarhi
11. The Ward Member of Ward no. 5 Gram Panchayat Raj, Nunpur (Uttari), District- Sitamarhi
12. The Ward Member of Ward no. 6 Gram Panchayat Raj, Nunpur (Uttari), District- Sitamarhi
13. The Ward Member of Ward no. 9 Gram Panchayat Raj, Nunpur (Uttari), District- Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Md. Jubair Ansari, Advocate
		Mr. Sitaram Prasad, Advocate
For the Respondent/s	:	Mr.Kumar Alok, (Sc7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)



Date : 12-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for following relief(s):-

(I) To direct the respondents to enquire/examine the work and quality of the P.C.C. Road and Nala constructed under the Mukhya Mantri Saat Nischay Yojna by the newly elected Mukhiya and ward Members of the Gram Panchayat Raj, Nanpur (Uttari), Block- Nanpur, District- Sitamarhi.

(ii) To direct the respondents to enquire the thickness (Pakkikaran) of Gali and Nala, after enquiry to punish the newly elected Mukhiya, ward members and responsible Government employees of the Gram Panchayat Raj Nanpur (Uttari)

And for any other relief(s) for which the petitioner may be found entitled in the facts and circumstances of the case.”

Counter affidavit has been filed on behalf of the respondent nos.1 & 2 and paragraph nos.9, 10 and 11 of which are reproduced hereinbelow:-

“ 9. That the detailed direction was issued vide letter no. 3328 dated 15.06.2018 on the matter of miss-appropriation of Government money/illegal withdrawal of the funds under the aforementioned two Nishchaya Yojana



by the Mukhiya/Panchayat Secretary of a Gram Panchayat whereby directions have been given to conduct enquiry, instate F.I.R and ensure recovery of the amount from the guilty persons in accordance with law/statutes submitted above. In order to check and prevent possible irregularity in the schemes being carried out by the WIMC, direction has issued vide letter no. 3574 dated 08.07.2018 to take legal action against the erring persons including instating Certificate Case and ensure recovery of the amount accordingly.

10. That it is relevant to submit that directions have been issued to all the District Magistrate/all the DDCs vide Panchayati Raj department letter no 3137 dated 12.06.2018 to take immediate action against any erring Mukhiya /PRI representative indulged in any illegal withdrawal, misappropriation/embezzlement of funds, etc of Saat Nishchaya Yojana. Under the said letter, direction has also been given to Flying Squad to conduct regular inquiry into Saat Nishchaya Yojana being undertaken at Ward level at the respective Panchayat. The report has to be submitted by the flying squad on the same day to the respective DM/DDC who has been specifically given direction to ensure appropriate legal action in accordance with law including lodging F.I.R. against the erring Public servants. They have also been directed to send proposal to take appropriate legal action under provisions of the Bihar Panchayat Raj Act 2006.

11. That with regard to the specific sought under the present writ application, it is humbly submitted that the State Government has framed the Bihar Panchayat (Inspection of Offices and Inquiry into Affairs, Supervision and .Guidelines) Rules 2014 (hereinafter referred to as the 'Rules 2014') with regard to inquiry into the matter of irregularity/ misappropriation/defalcation/embezzlement etc of



government money in panchayat area. Under Rule 4(3) of the Rules, 2014, the District Magistrate concerned has been vested power to inquire into such affairs in which complaints have been received against Mukhiya or Up-Mukhiya or members or Executive officer of a Panchayat Samiti with regard to not discharging functions according to the provisions of the Act, ignoring or willfully omitting the directions of the government or competent authority or committing financial irregularities. Under Rule 4 (4) of the Rules, 2014, the District Magistrate concerned may order to hold enquiry by any officer of the district, whom he thinks fit, but not below the rank of sub-divisional Magistrate.”

In view of the statement made in the aforesaid counter affidavit, this writ application stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.07.2021
Transmission Date	NA

