

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12039 of 2021

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Dharmendra Kumar Singh @ Dharmendra Singh, Son of Sri Birendra Singh,
resident of Village and P.O.- Majharia, P.S.- Buxar Industrial, District - Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna.
3. The District Magistrate, Buxar.
4. The Deputy Development Commissioner, Buxar.
5. The Sub Divisional Officer, Buxar.
6. The Block Development Officer, Buxar.
7. The District Panchayat Raj Officer, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Singh, Sr. Adv.
For the Respondent/s : Mr. Pratik Kumar Sinha, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 29-09-2021 Heard learned Senior Counsel for the petitioner and

learned Counsel for the State.

The petitioner, who, at the relevant point of time, was the Mukhiya of Gram Panchayat Raj Khutaha, in the district of Buxar, has filed the present writ application, for quashing the order, dated 27.04.2021, passed by respondent no. 2-the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna, whereby the petitioner has been removed from the post of the Mukhiya, Gram Panchayat Raj Khutaha, in exercise of power conferred upon the State Government, under Section



18 (5) of the Bihar Panchayat Raj Act, 2006 (herein after referred to as the '2006 Act') with further direction to the District Magistrate, Buxar, to take steps for recovery of the misappropriated amount from the person responsible for misappropriation under the Bihar and Orissa Public Demand Recovery Act. The further prayer of the petitioner is for a direction to the respondent authorities to reinstate him on the post of Mukhiya of the Gram Panchayat Raj Khutaha.

Mr. Sanjay Singh, learned Senior Counsel for the petitioner, in course of argument, submits that the impugned order has already taken effect and, now, the tenure of the Mukhiya has come to an end and fresh notification has been issued by the State Government for election of Mukhiya. He, however, further submits that the petitioner has apprehension that respondents may render the petitioner disqualified to contest the election on the ground that he has been removed from the post of Mukhiya on the ground of misconduct.

Learned Senior Counsel next submits that proviso to Section 18 (5) read with Section 152 of the 2006 Act provides for appointment of Lok-Prahari and the institution of Lok-Prahari has not been made operational for nearly a decade. Accordingly, a co-ordinate Bench of this Court has passed the



order, in CWJC No. 7095 of 2020 and analogous case, in similar circumstances and has held that since the institution of Lok-Prahari has not been made operational for 10 years, the removal of Mukhiya on the ground of misconduct, under Section 18 (5) of the 2006 Act, shall not operate as disqualification to contest the election.

Mr. Pratik Kumar Sinha, learned Assistant Counsel to Government Pleader No. 5 appearing on behalf of the State, however, tried to defend the impugned order and submits that there is no legal infirmity in the impugned order and the same has been passed in conformity with power vested in the State Government under Section 18 (5) of the 2006 Act after giving adequate opportunity to the petitioner to defend himself. He, however, agrees that the tenure of the Mukhiyas has come to an end and a fresh election has been announced by the State Government on 24.08.2021.

In view of the submission made by learned Counsel for the petitioner that the order of removal of Mukhiya has already taken effect and the tenure of the Mukhiya has come to an end, and a fresh election has been announced, accordingly, I refrain myself from expressing any opinion upon the validity of the impugned order, dated 27.04.2021.



A co-ordinate Bench of this Court, in CWJC No. 7095 of 2020 and analogous case, has held as follows:

“Considering the fact that the institution of Lok Prahari has not been made operational for ten years, the Court hereby declares that removal of Mukhiya on the ground of misconduct under Section 18(5) of the Bihar Panchayati Raj Act shall not operate as disqualification to contest election.”

Accordingly, taking into consideration the order passed by this Court in identical matters, I come to the conclusion that removal of the petitioner on the ground of misconduct, under Section 18 (5) of the 2006 Act shall not operate as disqualification to contest the future election.

This application is disposed with the aforesaid observations and directions.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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