

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3904 of 2021

1. Shrawan Kumar Thakur Son of Buchai Thakur Resident of Ward No.4, Ghoghardiha, P.S.-Ghoghardiha, District-Madhubani. At Present Chief Councillor of Nagar Panchayat Ghoghardiha, District-Madhubani.
2. Gauri Devi Wife of Suresh Jha Resident of Ward No.11, Ghoghardiha, P.S.-Ghoghardiha, District-Madhubani. At Present Deputy Chief Councillor of Nagar Panchayat Ghoghardiha, District-Madhubani.
3. Parmeshwar Paswan Son of Sitaram Paswan Resident of Ward No.11 Ghoghardiha, P.S.-Ghoghardiha, District-Madhubani. At Present Member of Empowered Standing Committee of Nagar Panchayat Ghoghardiha, District-Madhubani.
4. Savita Devi Wife of Ghuran Thakur Resident of Ward No.2, Ghoghardiha, P.S.-Ghoghardiha, District-Madhubani. At Present Member of Empowered Standing Committee of Nagar Panchayat Ghoghardiha, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna
2. The District Magistrate, Madhubani
3. The Deputy Development Commissioner, Madhubani.
4. The Sub-Divisional Officer, Phulparas, Madhubani.
5. The Executive Officer, Block Nagar Panchayat GHoghardiha, District-Madhubani.
6. Shankar Jha Son of Mahendra Jha Resident of Ward No.9, Ghoghardiha, P.S.-Ghoghardiha, District-Madhubani. At Present Member of Empowered Standing Committee Nagar Panchayat Ghoghardiha, District-Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Nikesh, Advocate
For the Respondent/s : Mr. Kinker Kumar, SC-9

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 03-09-2021 Heard Mr. Sanjeev Nikesh, learned counsel for the

petitioners and Mr. Kinker Kumar, learned SC-9 for the State

through video conferencing.

2. The petitioners have filed the present writ



application for the following reliefs:-

i) For issuance of an appropriate writ in the nature of certiorari quashing/setting aside the letter No. 508 dated 26.6.2020 as contained in Annexure-P/4 of the writ petition because it is contrary to Section 27(B) of the Bihar Municipal Act, 2007 which provides power and functions of the Respondent No. 5

ii) For issuance of an appropriate writ in the nature of mandamus commanding and directing the Respondent Authorities to remove the Executive Officer, Nagar Panchayat, Ghoghardiha, Madhubani (Respondent No. 5) from his post as an Executive Officer, Nagar Panchayat Ghoghardiha, Madhubani, because he is not interested in the work of Nagar Panchayat Ghoghardiha in terms of Section 27-B of the Bihar Municipal Act, 2007 (as amended).

iii) For issuance of an appropriate writ in the nature of mandamus commanding and directing the Respondent Authorities to post a new Executive Officer instead of present Executive Officer for smooth functioning of the Nagar Panchayat, Ghoghardiha, Madhubani.

3. Learned counsel for the petitioners submits that the Executive Officer (Respondent No. 5) is not discharging his



duties in accordance with the provisions of law and has been misusing his power with impunity. Learned counsel next submits that the enquiry was conducted on the direction of the District Magistrate, Madhubani, by the Sub Divisional Officer, Phulparas, Madhubani, who after a thorough enquiry, submitted enquiry report vide letter No. 275 dated 7.6.2021 to the Deputy Development Commissioner, Madhubani, and vide letter No. 318 dated 16.7.2021 to the District Magistrate, Madhubani.

4. Learned counsel next submits that in the enquiry report, the Sub Divisional Officer, Phulparas, Madhubani, has come to the finding that the petitioner has been misusing his power and is behaving in arbitrary fashion. In the circumstances he submits that the petitioner will file a detailed representation before the Principal Secretary, Urban Development and Housing Department, Patna, Bihar, within a period of three weeks and the Principal Secretary, Urban Development and Housing Department, Patna, Bihar, may be directed to dispose the same.

5. On the other hand, learned counsel for the State submits that the Principal Secretary is the competent authority to take a decision on the complaint of the petitioner and if the petitioner files a representation before the Principal Secretary,



the same will be disposed by him in accordance with law.

6. Having heard rival submission of the parties, the petitioner is permitted to file a detailed representation along with copy of the enquiry report before the Principal Secretary, Urban Development and Housing Department, Patna, Bihar, within a period of three weeks, and, if such a representation is filed by the petitioner, the Principal Secretary is directed to dispose the same in accordance with law within a further period of three months after giving the Respondent No. 5, proper opportunity to defend and personal hearing to both the parties.

7. With aforesaid observation and direction, this writ application is, accordingly, disposed of.

(Anil Kumar Sinha, J)

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