

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15864 of 2021**

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Mokhtar Ahmad Khan, Son of Saghir Ahmad Khand, Resident of Mohalla - Urdu Bazar, P.O. Lalbag, P.S. Laheriasarai, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. Darbhanga Municipal Corporation, Darbhanga, P.O. and P.S. Darbhanga, District - Darbhanga through the Municipal Commissioner.
4. The Municipal Commissioner, Darbhanga Municipal Corporation, Darbhanga P.O. and P.S. Darbhanga, District- Darbhanga.

... .. Respondent/s

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**Appearance :**

|                         |   |                                     |
|-------------------------|---|-------------------------------------|
| For the Petitioner/s    | : | Mr. S.B.K. Mangalaim, Advocate      |
|                         |   | Mr. Awnish Kumar, Advocate          |
| For the Respondent/s    | : | Mr. Yogendra Prasad Sinha ( AAG-7 ) |
| For the Municipal Corp. | : | Mr. Bindhyachal Rai, Advocate       |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**ORAL JUDGMENT**

**Date : 22-12-2021**

Heard learned counsel for the parties.

2. In the instant petition, the petitioner has prayed for the following reliefs:

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 21.08.2021 issued under the signature of the Respondent no.4 and contained in his memo no. 4124 dated 21.08.2021, whereby and where under he has been pleased to stay the implementation of the order dated 09.03.2019 issued under letter no. 622 dated 09.03.2019 whereby and where under the petitioner was posted as the Office Superintendent of Darbhanga Municipal Corporation and subsequent letter no.1742



dated 26.06.2019 issued by the then Municipal Commissioner in compliance of decision of the Empowered Standing Committee by which the petitioner was promoted to the post of Officer Superintendent. The Respondent no.4 has further directed for calculation of excess amount paid to the petitioner on the basis of aforesaid order and has also directed for its recovery.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 23.08.2021 issued under the signature of the Respondent no.4 and contained in his memo no. 4145 dated 23.08.2021, whereby and where under the Respondent no.4 has been pleased for posting of the petitioner as the Amin in Building Construction Section of the Corporation after granting stay of execution of the order by which the petitioner was promoted to the post of Officer Superintendent.

(III) For a declaration that in view of the provisions contained under Section 27B of the Bihar Municipal Act, 2007 (herein after referred to as the Municipal Act), the posting of Municipal Commissioner in a Municipal Corporation is for to carry into effect to every resolution of Empowered Standing Committee unless such resolution is set aside or suspended under the Act by the appropriate authority, the Respondent no.4 has no jurisdiction to stay the decision of the Empowered Standing Committee of the Respondent Municipal Corporation by which the petitioner was promoted to the post of Officer Superintendent since it has not been set aside or suspended by the appropriate authority and, therefore, the act of the Respondent no.4



while issuing the impugned order is without jurisdiction.

(IV) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for reinstatement of the petitioner to the post of Office Superintendent which he was duly promoted by the resolution of Empowered Standing Committee in its meeting dated 28.05.2019 and for payment of all the monetary benefits in accordance with law which was being paid to the petitioner before issuance of the impugned order by the Respondent no.4 and for which the petitioner would have been entitled if the impugned order would not have been passed by the Respondent no.4.

(V) 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. Short question for consideration in the present petition is before passing reversion order whether the petitioner has been heard in the matter or not?

4. Perusal of order of reversion dated 21.08.2021 does not reveal whether the petitioner has been issued notice and respondent is in receipt of petitioner's explanation. Therefore, the petitioner has made out a, *prima facie*, case that he has not been heard before passing of order of reversion.



5. Accordingly, the reversion order dated 21.08.2021 is set aside, reserving liberty to the concerned respondent to proceed in accordance with law.

6. The concerned respondent is hereby directed to issue show-cause notice to the petitioner as to why the petitioner shall not be reverted. On receipt of such notice, the petitioner shall submit his explanation within a period of two months from the date of receipt of show-cause notice. Further on receipt of petitioner's explanation, the concerned respondent is hereby directed to pass speaking order after due consideration of each of the contention to be raised by the petitioner in his explanation.

7. The above exercise shall be completed within a period four months from the date of receipt of a copy of this order.

8. The writ petition stands disposed of.

**(P. B. Bajanthri, J)**

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| AFR/NAFR          | NAFR       |
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