

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10463 of 2021

=====

Krishna Jeet Singh Resident of Village-Purushottampur, Parkhotimpur P.S.-
Maniyari, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Panchayati Raj, Bihar, Patna.
2. The Bihar State Election Commission through the Election Commissioner, Bihar, Patna.
3. The State Election Commissioner, Bihar, Patna.
4. The District Magistrate, Muzaffarpur.
5. The District Panchayati Raj Officer, Muzaffarpur.
6. The Block Development Officer, Kurahani, Muzaffarpur.
7. Mukhia, Gram Panchyat Raj, Mohammadpur Mubark, Kurahani Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Maruth Nath Roy, Advocate Mr. Sanjay Parasmani, Advocate
For the Respondent/s	:	Mr. P.N. Shahi (AAG-6) Mr. Girish Pandey, Advocate Mr. Amit Shrivastava Mr. Sanjeev Nikesh, Advocate Mr. Mritunjay Kumar, AC to AAG-6

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 04-03-2022 This application has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

This writ application has been filed seeking quashing of an order dated 26.05.2017, issued under the signature of the District Magistrate, Muzaffarpur and District



Panchayat Raj Officer, Muzaffarpur, wherein it has been held that there is no requirement to constitute *Gram Panchayat*, Purushottampur.

From the facts asserted in the writ application, it appears that, for a similar relief, one Shashi Bhushan Sharma had approached this Court by filing a writ petition giving rise to CWJC No. 628 of 2016 which was disposed of by an order dated 14.01.2016 with the following observation :-

“Issue of delimitation or re-constitution of a Panchayat lies entirely within the domain of the statutory authority under the Bihar Panchayat Raj Act, 2006 and the Election Rules framed thereunder.

This Court sitting in writ jurisdiction in such circumstances would refrain from entering into such domain. The writ petition is disposed of accordingly.

The petitioner, if so advised, may pursue the remedy as available to him under Section 11 of the Act, departmentally.”

Learned counsel appearing on behalf of the petitioner has referred to Section 11(1) of the Bihar Panchayat Raj Act, 2006 and has submitted that since population of village Purushottampur is much more than 7000, the District Magistrate ought to have declared the same to be a *Gram Panchayat* by exercising his power under



the said provision.

We reiterate the opinion expressed by this Court in the order dated 14.01.2016 in CWJC No. 628 of 2016 (Shashi Bhushan Sharma Vs. The State of Bihar and Ors.), wherein it has been clearly held that issue of delimitation or re-constitution of a *Panchayat* lies entirely within the domain of the statutory authority under the Bihar Panchayat Raj Act, 2006 and the Election Rules framed thereunder. This Court sitting in writ jurisdiction in such circumstances would refrain from entering into such domain. Further, the provision under Sub Section (1) of Section 11 does not cast any obligation upon the District Magistrate to declare any local area comprising of village or a contiguous village or a part thereof if the population of such area is nearly 7000. Provision under Section 11(1) is an enabling provision which empowers the District Magistrate to declare any local area as a *Gram Panchayat* by notification.

The submission made on behalf of the petitioner that the impugned order passed by the District Magistrate does not disclose any application of mind is thoroughly misconceived considering the nature of power the District Magistrate exercises under Sub Section (1) of Section 11 of



the Act. We do not find any merit in this application which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

U			
---	--	--	--

