

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10505 of 2020

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Satyendra Kumar Sahni, aged about 50 years, male, Son of Musafir Sahni,
resident of Village Bagahi Harakhpur, P.O. and P.S. Taraiya, District - Saran.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj.
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Secretariat, Patna.
3. The State Election Commission, Bihar, Patna through the Chief Electoral Officer.
4. The Chief Electoral Officer, Bihar, Patna.
5. The Collector, Saran.
6. The District Panchayati Raj Officer, Saran at Chapra.
7. The Block Development Officer, Taraiya, District Saran.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Nagendra Rai, Adv.
For the Respondents : Mr. Kumar Alok SC-7

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

6 24-01-2022 This matter has been taken up for hearing online
because of COVID-19 pandemic restrictions.

2. This application has been filed seeking following
reliefs:-

*“(I) To issue appropriate Writ/Writs,
Order/Orders and/or Direction/ Directions
directing the respondents to include village
Bagahi Harakhpur under P. S. Tariya, District-*



Saran in Taraiya Gram Panchayat after excluding this village from Pachbhinda Gram Panchayat;

(II) Command the respondent number 5 to issue requisite Gazette notification under Section 11(1) of the Bihar Panchayat Raj Act, 2006 including village Bagahi Harakhpur in the Taraiya Gram Panchayat and excluding the same from Pachbhinda Gram Panchayat, District Saran within a time period as may be stipulated by this Hon'ble Court;

(III) To grant any other relief deemed fit and proper.”

3. Section 11 of the Bihar Panchayat Raj Act, 2006

(for short ‘the Act’) reads as under:-

“11. Declaration of Gram Panchayat Area.-

(1) Subject to the general or special orders of the Government, the District Magistrate may, by notification in the District Gazette, declare any local area comprising a village or a group of contiguous villages or part thereof to be a Gram Panchayat area with a population within its territory as nearly as seven thousand:

Provided that the District Magistrate may, after consultation with the Gram Panchayat concerned, by a notification, at any time, include within or exclude from any Gram Panchayat area any village or part thereof and alter the name of the Gram Panchayat.



[Provided also that the Government may issue necessary direction to the District Magistrate on ground of reasons to be recorded in writing to constitute/reconstitute a Gram Panchayat area even with lesser population of seven thousand.]

(2) If the State Election Commission, suo motu or on receipt of a written representation from an aggrieved person, is of the opinion that there is sufficient reason for doing so, may review the legality and propriety of any Gram Panchayat declared under sub-section (1) and may call for the relevant records for this purpose, and subject to the provisions of this Act, may pass such order which the Commission deems fit and proper.

Provided that after the notification of the date of Panchayat election by the Governor under Section 124 of the Act, the Commission shall not consider any such new case.

(3) Every Gram Panchayat shall be a body corporate by the name of its Gram Panchayat and shall have perpetual succession and a common seal and subject to such restrictions as are imposed by or under this Act or any other enactment, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, whether without or within the limits of the area over which it has authority, or entering into contracts



and of doing all things necessary, proper and expedient for the purpose for which it is constituted.”

4. Learned counsel for the petitioner does not dispute the fact that till date, the State Government has not issued any general or special order for *Panchayat* area in question. Mr. Rai, learned counsel appearing on behalf of the petitioner, has submitted that the petitioner may be granted liberty to approach the State Election Commission, if such situation arises in future.

5. In our considered view, in the light of the clear provisions under Section 11 of the Act, as noted above, this application is premature and misconceived. It is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

shyambihari/-

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