

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14789 of 2021

1. Anant Kumar Ray, Son of Vishnu Lal Ray, Mukhiya, Gram Panchayat Raj, Madhura (West), Resident of Ward No. 8, Madhura, P.S. - Narpatganj, District - Araria.
2. Dina Nath Mandal, Son of Kamal Mandal, Ward Member, Ward No. 7, Gram Panchayat Raj Madhura (West), P.S. Narpatganj, District - Araria.
3. Surya Narayan Paswan, Son of Sita Ram Paswan, Resident of Madhura, North P.S. Narpatganj, District - Araria.
4. Ram Kumar Singh, Son of Dhrub Narayan Singh, Resident of Madhura North, P.S. Narpatganj, District - Araria.
5. Santosh Yadav, Son of Sakaldev Yadav, Resident of Ward No. 05, Madhura West, P.S. Narpatganj, District - Araria.
6. Nageshwar Prasad Sah, Son of Prithwee Chand Sah, Ward Member, Ward No. 6, Madhura North, P.S. Narpatganj, District - Araria.
7. Abhinash Paswan, Son of Ghaneshwar Paswan, Member, Narpatganj Prakhand Panchayat Samiti, Resident of Ward No. 10, Madhura North, P.S. Narpatganj, District - Araria.
8. Umesh Rai, Son of Harilal Ray, Ward Member, Ward No. 6, Madhura West, P.S. Narpatganj, District - Araria.
9. Raj Kumar Paswan, Son of Sheeta Paswan, Up Mukhiya Gram Panchayat Madhura South, Resident of Ward No. 7, Madhura West, P.S. Narpatganj, District - Araria.
10. Md. Kamar, Son of Sanif, Ward Member, Ward No. 3, Madhura West, P.S. Narpatganj, District - Araria.
11. Md. Haidar, Son of Khurshen, Ward Member, Ward No. 8, Madhura West, P.S. Narpatganj, District - Araria.
12. Dharam Nath Mandal, Son of Kamal Mandal, Sarpanch, Gram Panchayat Madhura West, P.S. Narpatganj, District - Araria.
13. Misrana Khatun, Wife of Md. Kamal, Ward Member, Ward No. 2, Madhura West, P.S. Narpatganj, District - Araria.
14. Md. Alam, Son of Kiphayat, Ward Member, Ward No. 11, Madhura North, P.S. Narpatganj, District - Araria.
15. Kiray Singh, Son of Debu Singh, Ward Member, Ward No. 4, Madhura North, P.S. Narpatganj, District - Araria.
16. Johra Khatun, Wife of Najir, Up Mukhiya Gram Panchayat Madhura West, P.S. Narpatganj, District - Araria.
17. Ranjit Kumar Jha, Son of Upendra Jha, Ward Member, Ward No. 11, Madhura West, P.S. Narpatganj, District - Araria.
18. Amrit Kumar Bhagat, Son of Jagdish Prasad Bhagat, Ward Member, Ward No. 14, Madhura West, P.S. Narpatganj, District - Araria.
19. Jitani Devi, Wife of Rameshwar Das, Ward Member, Ward No. 1, Madhura West, Gram Panchayat, Resident of Village Dharhara Rajganj, P.S.



Narpatganj, District Araria.

20. Dilip Kumar Bahardar, Son of Rabbi Lal Bahardar, Ward Member, Ward No. 9, Madhura West, P.S. Narpatganj, District - Araria.
21. Tilo Devi, Wife of Shyam Parmal, Ward Member, Ward No. 7, Madhura North, P.S. Narpatganj, District - Araria.

... .. Petitioner/s

Versus

1. The State of Bihar, Bihar, Patna.
2. The Principal Secretary, Department of Urban Development and Housing, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna.
4. The Joint Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
5. The Divisional Commissioner, Purnia Division, Purnia.
6. The District Magistrate, Araria.
7. District Panchayat Raj Officer, Araria.
8. The Deputy Collector Land Reforms, Forbesganj, District - Araria.
9. Sub-Divisional Officer, Forbesganj, District - Araria.
10. The Block Development Officer, Narpatganj, District - Araria.
11. The Circle Officer, Narpatganj, District - Araria.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sunil Kumar
For the Respondent/s : Mr.Kinkar Kumar (Sc9)

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

3 07-03-2022 The present writ application has been filed seeking quashing of a notification dated 03.03.2021 issued by the Urban Development and Housing Department, Government of Bihar, whereby Nagar Panchayat, Narpatganj, has been notified in



exercise of power in accordance with the provisions under Sections 3(1)(a), 4, 5, 6 and 8 of the Bihar Municipal Act, 2007, within which the areas of three Gram Panchayats have been included.

2. Before issuance of the said notification dated 03.03.2021, an intention to declare the said area as a Nagar Panchayat was notified by the State Government as stipulated under Section 4 of the Act, whereafter, the inhabitants of the area had filed an objection, a copy of which has been brought on record by way of Annexure-1 series to the writ application.

3. Learned counsel appearing on behalf of the petitioners has submitted that the specific objections filed under Section 5 of the Act have not been considered by the respondent authorities before the issuance of the impugned notification. He has submitted that out of the total population of 23000 in the area notified as Nagar Panchayat, 95% are agricultural labourers, and only 5% are dependent on business. He has submitted that the respondents have not passed any orders on such objections raised by the inhabitants of the area and, therefore, the impugned notification requires interference by this Court.

4. We have perused the objections, which had been



raised by the petitioners as mentioned in Annexure-1 series to the writ application. None of the objections raises any point out that the area does not fulfill any of the parameters requisite for being declared as a Nagar Panchayat, stipulated in Section 3 and Section 7 of the Act.

5. The petitioners' case, in our considered opinion, is squarely covered by a Division Bench decision of this Court in the case of *Usha Devi and Others vs. The State of Bihar and Others* (C.W.J.C. No. 7446 of 2021 and other analogous matter, disposed of on 17.01.2022). Paragraphs 38 to 40 of which read as under: -

“38 Section 5 of the Act of 2007 provides an opportunity to any inhabitant in the city, town or Nagar Panchayat in respect of which a notification has been published under Section 4 of the Act of 2007, to object in writing to the State Government within a month from the date of publication conveying intention of the State Government to constitute a municipal area. The opportunity provided under Section 5 of the Act of 2007 must be construed to be for filing of objections with respect to violation/non-fulfillment of the requisite factors contained in the Act in respect of the larger Municipal area/urban area to be constituted. The



opportunity to object cannot be claimed to raise any and every issue under the sun. In the instant case, objections by the petitioners is in respect of parameters which are not germane to the issue of upgradation/constitution of Municipal Area as per the Act.

39 Thus, from a bare reading of the objection, it appears that there is no allegation regarding there being absence of any of the requisite factors/parameters under Sections 3 or 7 of the Act of 2007. When the objection raised is wholly irrelevant, as in the instant case, this Court would consider it useful to refer to decision of the Apex Court in the case of ***Bhikhubhai Vithlabhai Patel & Others -Versus- State of Gujarat & Another***, reported in ***(2008) 4 Supreme Court Cases 144***. Paragraph 25 of the said judgment is noteworthy inasmuch as the same has elaborated the meaning and purport of the word “consider”. Paragraph 25 of the judgment reads as under:

“25. The formation of the opinion by the State Government is with reference to the necessity that may have had arisen to make



*substantial
modifications in the
draft development plan.
The expression: “as
considered necessary”
is again of crucial
importance. The term
“consider” means to
think over; it connotes
that there should be
active application of
the mind. In other
words the term
“consider” postulates
consideration of all the
relevant aspects of the
matter. A plain reading
of the relevant
provision suggests that
the State Government
may publish the
modifications only after
consideration that such
modifications have
become necessary. The
word “necessary”
means indispensable,
requisite, indispensably
requisite, useful,
incidental or*



*conducive, essential,
unavoidable,
impossible to be
otherwise, not to be
avoided, inevitable.
The word “necessary”
must be construed in
the connection in which
it is used. (See
Advanced Law Lexicon,
P Ramanatha Aiyar, 3rd
Edn, 2005.)”*

40 Being guided by the said judgment, this Court would arrive at a conclusion that consideration is to be of the relevant aspects. The objectors, as in the instant case, cannot be permitted to raise issues which are wholly irrelevant and then claim that the authority is required to consider them, when it is manifest from bare reading of the objection itself that the objections raised are not germane to the issues under the Act of 2007. The State Government, therefore, is fully justified in rejecting the petitioner’s objection as being “not worthy of consideration”.

6. We are of the considered opinion that Section 5 of the Act does not mandate the passing of any order on an



objection raised by an inhabitant under Section 5 of the Act.

7. Situated thus, this application has no merit and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Pawan/-

U			
---	--	--	--

