

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15782 of 2021

Manish Kumar @ Manish Kumar Singh, Son of Late Akhilesh Sharan Singh,
Resident of Mohallah-Bhupnarayan Singh Colony, Ward No. 21, P.O. and
P.S.-Madhubani, District-Madhubani, Pin Code-847211 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Deputy Director, Municipal Administrative Directorate, Urban Development and Housing Department, Government of Bihar, Patna.
4. The District Magistrate, Madhubani.
5. The Municipal Commissioner, Municipal Corporation Madhubani, District-Madhubani.
6. Smt. Sunaina Devi, Wife of not known to the petitioner, Mayor, Municipal Corporation Madhubani, District-Madhubani.
7. Waris Ansari, son of not known to the petitioner, Deputy Mayor, Municipal Corporation Madhubani, District-Madhubani.
8. Smt. Vinita Devi, Wife of not known to the petitioner, Ward Councilor, Ward No. 2, , Municipal Corporation Madhubani, District-Madhubani.
9. Smt. Nirmala Devi, Wife of not known to the petitioner, Ward Councilor, Ward No. 5, , Municipal Corporation Madhubani, District-Madhubani.
10. Smt. Punam Kumari, Wife of not known to the petitioner, Ward Councilor, Ward No. 6, Municipal Corporation Madhubani, District-Madhubani.
11. Smt. Rekha Nayak Wife of not known to the petitioner, Ward Councilor, Ward No. 8, Municipal Corporation Madhubani, District-Madhubani.
12. Smt. Benzir Khalid, Wife of not known to the petitioner, Ward Councilor, Ward No. 9, Municipal Corporation Madhubani, District-Madhubani.
13. Smt. Rehana Khatoon, Wife of not known to the petitioner, Ward Councilor, Ward No. 10, Municipal Corporation Madhubani, District-Madhubani.
14. Smt. Ayesha Khatoon, Wife of not known to the petitioner, Ward Councilor, Ward No. 12, Municipal Corporation Madhubani, District-Madhubani.
15. Smt. Sonali Devi, Wife of not known to the petitioner, Ward Councilor, Ward No. 13, Municipal Corporation Madhubani, District-Madhubani.
16. Smt. Sunita Devi, Wife of not known to the petitioner, Ward Councilor, Ward No. 14, Municipal Corporation Madhubani, District-Madhubani.
17. Smt. Maharani Devi, Wife of not known to the petitioner, Ward Councilor, Ward No. 15, Municipal Corporation Madhubani, District-Madhubani.
18. Smt. Priti Chaudhary, Wife of not known to the petitioner, Ward Councilor, Ward No. 16, Municipal Corporation Madhubani, District-Madhubani.



19. Smt. Shabnam Ara, Wife of not known to the petitioner, Ward Councilor, Ward No. 22, Municipal Corporation Madhubani, District-Madhubani.
20. Smt. Shabana Parveen, Wife of not known to the petitioner, Ward Councilor, Ward No. 25, Municipal Corporation Madhubani, District-Madhubani.
21. Smt. Kavita Devi, Wife of not known to the petitioner, Ward Councilor, Ward No. 26, Municipal Corporation Madhubani, District-Madhubani.
22. Smt. Halima Khatoon, Wife of not known to the petitioner, Ward Councilor, Ward No. 29, Municipal Corporation Madhubani, District-Madhubani.
23. Smt. Prabhawati Devi, Wife of not known to the petitioner, Ward Councilor, Ward No. 30, Municipal Corporation Madhubani, District-Madhubani.
24. Sri Jai Shankar Sah, son of not known to the petitioner, Ward Councilor, Ward No. 1, Municipal Corporation Madhubani, District-Madhubani.
25. Sri Dharamvir Prasad, son of not known to the petitioner, Ward Councilor, Ward No. 4, Municipal Corporation Madhubani, District-Madhubani.
26. Sri Surendra Mandal, son of not known to the petitioner, Ward Councilor, Ward No. 7, Municipal Corporation Madhubani, District-Madhubani.
27. Sri Raja Isteyaque Ahmad, son of not known to the petitioner, Ward Councilor, Ward No. 17, Municipal Corporation Madhubani, District-Madhubani.
28. Sri Kailash Sah, son of not known to the petitioner, Ward Councilor, Ward No. 18, Municipal Corporation Madhubani, District-Madhubani.
29. Sri Subhash Chandra Mishra, son of not known to the petitioner, Ward Councilor, Ward No. 19, Municipal Corporation Madhubani, District-Madhubani.
30. Sri Umesh Prasad, son of not known to the petitioner, Ward Councilor, Ward No. 20, Municipal Corporation Madhubani, District-Madhubani.
31. Sri Arun Kumar Rai, son of not known to the petitioner, Ward Councilor, Ward No. 23, Municipal Corporation Madhubani, District-Madhubani.
32. Sri Jamun Sahani, son of not known to the petitioner, Ward Councilor, Ward No. 27, Municipal Corporation Madhubani, District-Madhubani.
33. Sri Khalid Anwar, son of not known to the petitioner, Ward Councilor, Ward No. 28, Municipal Corporation Madhubani, District-Madhubani.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 17637 of 2021

1. Munni Devi Wife of Sri Shyamdeo Rajbanshi Ray Resident of Mohalla - Ajatshatru Nagar, Ward No. 18, P.O. and P.S. - Rajgri, District- Nalanda, Pin Code - 803116 (Bihar).
2. Pinki Devi wife of Sri Ashok Kumar Ray Resident of Mohallah - Bari Milki, Ward No. 05, P.O. and P.S. - Rajgir, District- Nalanda, Pin Code - 803116 (Bihar).



... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Development, Government of Bihar, Patna.
3. The Deputy Director, Municipal Administrative Directorate, Urban Development and Housing Development, Government of Bihar, Patna.
4. The District Magistrate, Nalanda at Biharsharif.
5. The Municipal Executive Officer, Nagar Parishad, Nalanda, District- Nalanda at Biharsharif.
6. The State Election Commission, Sone Bhawan, R Block, Bir Chand Patel Path, Patna- 800001 (Bihar) Represented through its Secretary, The State Election Commissioner, Bihar, Patna.
7. The Secretary, The State Election Commission, Sone Bhawan, R Block, Bir Chand Patel Path, Patna - 800001 (Bihar).
8. The Additional District Magistrate - Cum - Additional Collector, Nalanda - Cum- Administrator, Nagar Parishad, Rajgir, District- Nalanda at Biharsharif.
9. Pankaj Kumar Yadav Son of Not known to the Petitioner Ward Councilor, Ward No. 1 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
10. Ramesh Kumar Son of not known to the petitioner Ward Councilor, Ward No. 2 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
11. Birju Rajbanshi Son of not known to the petitioner Ward Councilor, Ward No. 3 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
12. Anil Kumar Son of not known to the petitioner Ward Councilor, Ward No. 4 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
13. Savitri Devi Wife of not known to the peitioner Ward Councilor, Ward No. 6 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
14. Anjali Devi Wife of not known to the petitioner Ward Councilor, Ward No. 7 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
15. Suvendra Rajbanshi Son of not known to the peitioner Ward Councilor, Ward No. 8 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
16. Rukmini Devi wife of not known to the petitioner Ward Councilor, Ward No. 9 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
17. Vikash Kumar Son of not known to the petitioner Ward Councilor, Ward No. 10 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
18. Meena Devi Wife of not known to the petitioner Ward Councilor, Ward No. 11 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
19. Jyoti Devi Wife of not known to the petitioner Ward Councilor, Ward No. 12 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
20. Jyoti Devi Wife of not known to the petitioner Ward Councilor, Ward No. 13 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.



21. Umesh Rajak Son of not known to the petitioner Ward Councilor, Ward No. 14 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
22. Urmila Devi Wife of not known to the petitioner Ward Councilor, Ward No. 15 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
23. Sadhna Devi Wife of not known to the petitioner Ward Councilor, Ward No. 16 Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
24. Shravan Kumar Son of Not known to the petitioner Ward Councilor, Ward No. 17, Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.
25. Meera Kumari Wife of not known to the petitioner Ward Councilor, Ward No. 19, Nagar Parishad, Nalanda, District - Nalanda at Biharsharif.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 18666 of 2021

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1. Gulrez Shahzad Son of Md. Ali Akhtar, Resident of Mohallah-Nakchhed Tola, Ward No. 04, P.O. and P.S.-Motihari, District-Motihari, Pin Code-845401 (Bihar).
2. Vijay Kumar Jaiswal Son of Jagdish Prasad Jaiswal, Resident of Mohallah-Bajajpatti, Ward No. 09, Near Sona Hotel, P.O. and P.S.-Motihari, District-Motihari, Pin Code-845401 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban development and Housing Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. Deputy Director, Municipal Administrative Directorate, Urban Development and Housing Department, Government of Bihar, Patna.
4. The Secretary, Municipal Administration Directorate, Urban Development and Housing Department, Government of Bihar, Patna.
5. The Additional Secretary, Municipal Administration Directorate, Urban Development and Housing Department, Government of Bihar, Patna.
6. The District Magistrate, East Champaran, Cum Administrator, Municipal Corporation, Motihari.
7. The Municipal Corporation, Motihari Through ITS Administrator, Municipal Corporation, Motihari.
8. The State Election Commission, Sone Bhawan, R Block Bir Chand Patel Path, Patna-800001 (Bihar) Represented Through ITS Secretary, State Election Commissioner, Bihar, Patna.
9. The Secretaty, State Election Commission, Sone Bhawan, R Block, Bir Chand Patel Path, Patna-800001 (Bihar).

... .. Respondent/s



Appearance :

(In Civil Writ Jurisdiction Case No. 15782 of 2021)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Advocate
Mr. Gopal Jha, Advocate
Mr. Santosh Bharti, Advocate
Ms. Anu Priyadarshi, Advocate
For the Respondent/s : Mr. Rajiv Roy (GP-1)
Mr. Suresh Kumar, AC to GP-1
For State Election Commission: Mr. Sanjeev Nikesh, Advocate
For Madhubani Nagar Nigam : Mr. Dhananjay Kumar, Advocate
Mr. Pankaj Kumar Das, Advocate

(In Civil Writ Jurisdiction Case No. 17637 of 2021)

For the Petitioner/s : Mr. Shri Prakash Srivastava, Advocate
For the Respondent/s : Mr. Subash Prasad Singh (GA-3)
Mr. Shiv Kumar, AC to GA-3
For State Election Commission: Mr. Girish Pandey, Advocate
For Respondent No. 8 : Mr. Alok Ranjan, Advocate

(In Civil Writ Jurisdiction Case No. 18666 of 2021)

For the Petitioner/s : Mr. Shri Prakash Srivastava
For the Respondent/s : Mr. Kinkar Kumar (SC-9)
Ms. Deepika Sharma, AC to SC-9
Mr. Zaki Haider, AC to SC-9
For State Election Commission: Mr. Girish Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 17-01-2022

Since the core issue involved in all these applications is identical, they have been heard together with the consent of learned counsel for the parties and are being disposed of by the present common judgment and order.

2. We have heard Mr. Shri Prakash Shrivastava, learned counsel for the petitioners in all these cases, Mr. Rajiv Roy, learned GP-1, Mr. Subash Prasad Singh, learned GA-3, Mr. Kinkar Kumar, learned SC-9 for the State of Bihar and Mr.



Sanjeev Nikesh and Mr. Girish Pandey, learned counsel for the State Election Commission.

3. Petitioners of CWJC No. 17637 of 2021 claim to be duly elected Ward Councillors of Nagar Panchayat, Rajgir from Ward No. 18 and 5. They further claim to be the duly elected Chairperson of the said Nagar Panchayat. In exercise of power under Section 3(1)(a), 4, 5, 6, and 8 of Bihar Municipal Act, 2007 dated 03.03.2021, the said Nagar Panchayat Rajgir has been upgraded as Nagar Parishad, Rajgir. It is the petitioners' case that election of Nagar Panchayat, Rajgir was held in the year 2017 and its first meeting was convened on 09.06.2017. It is their case that by virtue of Article 243-U read with Sections 16 and 35 of the Act, the term and tenure of elected office bearers of Nagar Panchayat, Rajgir should continue up to 09.06.2022. However, by erroneously applying Section 12(8) of the Act, the term and tenure of Nagar Panchayat, Rajgir is being shortened to 03.09.2021 i.e. upon completion of six months from the date of notification, by the respondents.

4. The petitioners in CWJC No. 18666 of 2021 claim to be elected Ward Councillors of Nagar Parishad, Motihari. They have challenged letter dated 29.09.2021, issued by the Urban Development and Housing Department, Government of



Bihar dated 29.09.2021, whereby a District Magistrate has been appointed as Administrator of upgraded Nagar Parishad, Motihari under the provision contained in Section 12(8) and 12(9) of the Act.

5. Similarly, CWJC No. 15782 of 2021 relates to upgradation of Nagar Parishad, Madhubani to Nagar Nigam by virtue of a similar notification dated 26.03.2021.

6. In all cases, the petitioners claim that they have a right to continue for a period of five years after the first meeting of the respective elected bodies, by virtue of Article 243-U of the Constitution of India read with Section 16 and 35 of the Act. It is their common case that they had a right to continue for five years on their election and, in no event, their term can be scuttled by putting into operation Section 12(8) of the Act.

7. The said issue has been decided by a Division Bench of this Court by judgment and order dated 17.01.2022, passed in CWJC No. 17044 of 2021 (*Anju Devi vs. The State of Bihar and others*) and other analogous matters, of which both of us (Chakradhari Sharan Singh and Madhuresh Prasad JJ) are members.

8. In the light of the said decision rendered in the case of **Anju Devi** (supra), we do not find any merit in these



applications, which are accordingly dismissed.

(Chakradhari Sharan Singh, J)

I agree.
Madhuresh Prasad, J.

(Madhuresh Prasad, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.02.2022
Transmission Date	NA

