

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13967 of 2022

1. Jinis Saday Son of Mauje Saday resident of Village- Belhwar, Police Station- Rajnagar, District- Madhubani.
2. Sonu Mishra Son of Chandra Shekhar Mishra resident of Village- Ahmada, Police Station- Rajnagar, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development and Housing, Government of Bihar, Patna.
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The District Magistrate-cum-Collector, Madhubani.
4. The Sub-Divisional Officer, Madhubani, District- Madhubani.
5. The Circle Officer, Rajnagar, District- Madhubani.
6. The Municipal Corporation, Madhubani through its Commissioner.
7. The Commissioner, Municipal Corporation, Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Gopal Jha, Advocate
For the Respondent/s : Mr.Yogendra Pd. Sinha (AAG-7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 16-09-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

- (i) For holding that once the State Government by Notification has upgraded the Madhubani Municipality (Nagar Parishad) to Municipal Corporation including Ward Nos. 1 and 2 of Mangrauni Gram Panchayat and Ward Nos. 8 to 13 of Raghuni Dehat Gram Panchayat within the Municipal Corporation, it cannot be excluded in the map of the Madhubani Municipal Corporation prepared by the authorities of the

Madhubani District and the authorities of the Municipal Corporation, Madhubani.

- (ii) For declaring that the map of Madhubani Municipal Corporation, Madhubani showing the areas within its jurisdiction wherein Ward Nos. 1 and 2 of Mangrauni and Ward Nos. 8 to 13 of Raghuni Dehat have been excluded, but the areas falling adjacent north and south of the aforesaid area are shown within the Municipal Corporation is ex-facie an area which needs to be corrected in consonance with the Notification upgrading the Madhubani Municipality (Nagar Parishad) to Municipal Corporation.
- (iii) For commanding the respondents to prepare and draw a fresh map of the area within Municipal Corporation, Madhubani showing Ward Nos. 1 and 2 of Mangrauni and Ward Nos. 8 to 13 of Raghuni Dehat within the

area of Municipal Corporation as has been notified earlier by the State Government and acted upon by the District authorities of Madhubani and Municipal Corporation, Madhubani.

(iv) For holding that by excluding the Ward Nos. 1 and 2 of Mangrauni and Ward Nos. 8 to 13 of Raghuni Dehat from the map of Madhubani Municipal Corporation, whereas areas encircling the aforesaid wards is totally non-application of mind while preparing the map and an error on the fact of the notification, which would result in deprivation of the citizens residing in the area concerned from different beneficial projects as also developments.

(v) For grant of any other relief or reliefs, for which the petitioners are found to be legally entitled in the facts and circumstances of this case.

Notification for holding elections of Municipal Bodies has been issued by the State Election Commission, as such, present writ petition is not maintainable.

Article 243-ZG of Constitution Bars interference by Courts in electoral matters which reads as under:-
Notwithstanding anything in this Constitution,-

“(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243-ZA shall not be called in question in any Court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.”

Under Section 8 of the Municipal Act, State Government is empowered to include/exclude any area in municipal body after following due procedure as prescribed in Municipal Act.

Section 8 of Municipal Act, 2007 read as follows:-

“8. Power to abolish or alter limits of municipal area.- The State Government may, by notification.-

(a) withdraw any municipal area or part thereof from the operation of this Act, or

(b) exclude from a municipal area any local area comprised therein and defined in the notification, or

(c) include within a municipal area any local area contiguous to such municipal area and defined in the notification, or

(d) divide any municipal area into two or more municipal area, or unite two or more contiguous municipal

area so as to constitute one municipal area, or
(f) revise the boundary of two or more contiguous municipal areas:
Provided that the procedure laid down for the constitution of a municipal area under this Act shall be followed mutatis mutandis in each such case:
Provided further that the views of the Municipality affected by any such notification shall be invited by the State Government within such time as may be specified in the notification, and the State Government shall consider the views of the Municipality as aforesaid before a final declaration is made:
Provided also that no such notification shall be issued where any part of the municipal area or any neighbouring area is a cantonment or part of a cantonment, as defined in the Cantonment Act, 1924.”

Accordingly, the writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	