

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15113 of 2022

Manjay Sahani @ Mithu Sahani, S/o Late Satyanarayan Sahani, Resident of Village- Bhaluahi, Kadamwa Tola, P.S.- Ghora Sahan, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fisheries Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna.
2. The Secretary, Animal Husbandry and Fisheries Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna.
3. The Director, Fisheries, Government of Bihar, Old Secretariat Building, Patna.
4. The Deputy Director, Fisheries, Government of Bihar, Old Secretariat Building, Patna.
5. The District Magistrate, East Champaran, Motihari.
6. The District Co-operative Officer, East Champaran, Motihari.
7. The District Fisheries Officer-cum-Chief Executive Officer, East Champaran, Motihari.
8. The Block Co-operative Extension Officer-cum-Administrator, Ghorasahan Matasyajivi Sahyog Samiti Limited, Ghorasahan Block, District- East Champaran.
9. Ghorasahan Matasyajivi Sahyog Samiti Limited Ghorasahan Block, District- East Champaran.
10. Anil Sah @ Anil Kumar Sah, Son of Binod Sah, Resident of Village-Balapur, P.O.-Kundwa Chainpur, P.S.-Ghorasahan, District-East Champaran.
11. Mahendra Sahni, Son of Daroga Sahni, Resident of Village-Pithwa, P.O.-Jamuniya, P.S.-Ghorasahan, District-East Champaran.
12. Maharaj Mahto, Son of Chulhai Mahto, Resident of Village and P.O.-Barwas Khurd, P.S.-Ghorasahan, District-East Champaran.
13. Yogendra Sahni, Son of Daroga Sahani, Resident of Village-Pithwa, P.O.-Jamuniya, P.S.-Ghorasahan, District-East Champaran.
14. Rabindra Kumar, Son of Nand Lal Sah, Resident of Village-Sripur Kaswan, P.S.-Ghorasahan, District-East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s

:

Mr. Sanjay Kumar, Advocate

Mr. Ram Nibash Prasad, Advocate



For the Respondent/s : Mr. Rishi Raj Sinha, SC-19

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 08-05-2023 1. Heard learned counsel for the petitioner, learned counsel for the respondent-State and its authorities and learned counsel for respondent nos. 10 to 14.

2. The petitioner has filed the instant application for the following relief(s):-

“(i) Issuance of a direction, order or writ including writ in the nature of "CERTIORARI" for quashing of Memo No. 525 dated 07/07/2022 issued under the signature of District Fisheries Officer-cum-Chief Executive Officer, East Champaran, Motihari;

(ii) Issuance of a direction, order or writ including writ in the nature of "MANDAMUS" to delegate the power of administrator to the Block Co-operative Extension Officer, Ghorasahan;

(iii) Any other relief/ reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

3. The case of the petitioner in brief is that the election of Matasyajivi Sahyog Samiti Limited, Ghorasahan Block, District- East Champaran (respondent no.9) was due on 28.6.2022, but on account of not sending the proposal for election on time, the election could not be held and the Samiti (respondent no.9) stood automatically dissolved in view of



section 14(10) of the Bihar Co-operative Society Act, 1935.

4. Learned counsel for the petitioner submits that by order dated 5.7.2022 of the District Fisheries Officer-cum-Chief Executive Officer, East Champaran, Motihari (respondent no.7), the period of *Bandobasti* had been extended for a period of 1 year from 1.7.2022 to 30.6.2023. Learned counsel submits that on account of the Samiti (respondent no.9) having stood superseded, by order dated 30.6.2022 (Annexure-1) the Block Co-operative Extension Officer was appointed as Administrator. In spite of the dissolution of the Samiti and appointment of Administrator on 30.6.2022 itself, the District Fisheries Officer-cum-Chief Executive Officer, East Champaran, Motihari (respondent no.7) by the impugned Memo no.525, dated 5.7.2022 sent a copy of the order of extension of *Bandobasti* as contained in Annexure-2 to the *Mantri*, Prathmik Matasyajivi Sahyog Samiti Limited, Ghorasahan, instead of sending the same to the Administrator. It was thus submitted that although the petitioner may not have anything to say with respect to Annexure-2, but so far as that part of Annexure-2 is concerned whereby a copy of the same was sent to the *Mantri*, Prathmik Matasyajivi Sahyog Samiti Limited, Ghorasahan is concerned, the same be quashed.



5. On being confronted with the submissions made on behalf of the petitioner, learned counsel for the respondent-State submits that it is true that the Samiti (respondent no.9) already stood superseded on 29.6.2022 and respondent no.8 was appointed as Administrator. The sending of a copy of the order as contained in Annexure-2 to the *Mantri*, Prathmik Matasyajivi Sahyog Samiti Limited, Ghorasahan was unwarranted and for this reason the said District Fisheries Officer-cum-Chief Executive Officer, East Champaran, Motihari (respondent no.7) has already been suspended and proceeded against.

6. Learned counsel appearing for respondent nos. 10 to 14 is also unable to dispute the fact of the Samiti (respondent no.9) having been superseded and that the main role therein has to be played by the Administrator appointed by the order contained in Annexure-1.

7. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the part of the order dated 5.7.2022 as contained in Annexure-2, so far as sending a copy of the same to the *Mantri*, Prathmik Matasyajivi Sahyog Samiti Limited, Ghorasahan on 7.7.2022 is concerned, the same having been sent after the Samiti (respondent no.9) stood superseded and Administrator



appointed, is illegal and the same is set aside.

8. The writ application stands allowed.

(Partha Sarthy, J)

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