

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.722 of 2023

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Mohammad Mukhtar Alam, Son of Md. Vasinuddin @ Md. Vasiruddin,
Resident of Village- Dherwa Mansoorganj, P.O.- Kalsar, P.S.- Dand Khosh,
District- Katihar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna.
3. The Director, Panchayat Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Katihar, District- Katihar.
5. The District Panchayat Raj Officer, District- Katihar.
6. The Sub Divisional Officer, Katihar, District- Katihar.
7. The Block Development Officer, Hasanpur, District- Katihar.
8. The Block Panchayat Raj Officer, Hasanganj, District- Katihar.
9. The Sarpanch, Gram Kachahari, Dherwa, Block- Hasanganj, District- Katihar.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Sharda Nand Mishra, Adv. Mr.Dhananjay Kumar Gupta, Adv.
For the Respondents	:	Mr.Kumar Alok (SC- 7) Mr.Prem Ranjan Raj, A.C. to S.C.-7

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 21-03-2023 Heard learned counsel for the petitioner and the State.

The petitioner, in the present case, is seeking a direction to the respondents to consider his application and to allow him to join on the post of Secretary in Gram Kachahari, Dherwa, Block-Hasanganj in the district of Katihar.

Learned counsel for the petitioner submits that pursuant to the letter dated 04.12.2007 (Annexure '1'), the petitioner was appointed as Secretary in the Gram Kachahari,



Dherwa Panchayat. It is his statement that since then the petitioner is discharging his duties.

It is his further statement that he fell ill and did not attend his office since 05.03.2018 to 02.08.2019 but thereafter he submitted his joining before the Sarpanch of the Gram Kachahari. His joining was however not accepted.

Learned counsel submits that the petitioner submitted another application dated 14.08.2019 before the respondent Block Development Officer, Hasanganj (Annexure '5'), thereafter the Block Development Officer vide his Memo No. 1253 dated 03.08.2021 as contained in Annexure '6' to the writ application assigned the petitioner work for distribution of the ration cards. In Annexure '6', he described the petitioner as "Kachahari Sachiv".

Learned counsel therefore submits that appropriate direction be issued to the Block Development Officer to accept the joining of the petitioner as Secretary to the Gram Kachahari, Dherwa.

Mr. Alok, learned S.C.-7 for the State has opposed this writ application. Learned counsel has submitted that Section 90 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act of 2006') provides for the constitution of the Gram Kachahari, election of Sarpanch and Panchas. A Gram



Kachahari is to be constituted in every Gram Panchayat area for the purposes of discharging the judicial functions presented by or under the Act of 2006. Section 92 says that every Gram Kachahari, unless sooner dissolved under any law for the time being in force, shall continue for five (5) years from the date appointed for the first meeting and no longer.

Thereafter, the attention of this Court has been drawn towards the Bihar Gram Kachahari Secretary (Employment Service Conditions and Duties) Rules, 2014 (hereinafter referred to as the “Rules of 2014”). Clause (e) of Rule 2 defines “Gram Kachahari”. Rules 3 provides for employment of Secretary of a Gram Kachahari. The qualification and procedure of employment are provided under Rule 3 to 6. It is submitted under sub-rule (5) of Rule 8 it is clearly stated that “with completion of tenure of Gram Kachahari, the contract of the candidate employed on contract to the post of Secretary, Gram Kachhari shall terminate automatically; provided that the State Government, if it so desires, may, by notification extend their contract period; provided also that till a fresh employment on contract by the newly constituted Gram Kachahari is made, he/she will continue to discharge the functions and responsibilities of the Secretary, Gram Kachahari and on



completion of the procedure of employment, make over his/her charge to the newly appointed Secretary, Gram Kachahari”.

Learned counsel submits that in the whole writ application, there is no averment that after his appointment as Secretary of the Gram Kachahari in the year, 2007 the State Government ever extended the contract period of the petitioner. There is also no statement that after the fresh elections of the Gram Panchayat, the Gram Panchayat has not constituted the Gram Kachahari afresh and has not appointed any Secretary. Moreover, it is submitted that it was a contractual engagement and from his statement it appears that the petitioner did not attend his office since 05.03.2018 however learned counsel has hasten to add that the facts stated in the writ application are completely vague and cannot be relied upon.

Having regard to the submissions noted hereinabove and materials available on the record, this Court finds substance in the submission of learned counsel for the State. The writ application does not contain any averment as have been pointed out by the learned counsel for the State. The fact that in Annexure ‘6’ the Block Development Officer has described the petitioner as ‘Kachahari Sachiv’ would not inspire confidence in this Court. No basis of the same has been explained to this



Court by learned counsel for the petitioner.

Learned counsel for the petitioner has at this stage pointed out from Annexure '9' that the Sarpanch of the Gram Kachahari has requested the Block Development Officer on 23.06.2022 for appointment of Secretary. This Court would not go into such issue at this stage. If Secretary to the Gram Kachahari is required to be appointed /engaged, the authorities are always at liberty to proceed to appoint/engage Secretary of the Gram Kachahari in accordance with law and by following the established procedure of law.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

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