

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5834 of 2024

1. Sabitri Devi Wife of Suresh Sah, Resident of- Ward No. 14, Village- Sabuni Turha Toli (Nagar Panchayat Ramnagar), P.S.- Ramnagar, District- West Chaparan at Bettiah,
2. Anupam Ray, Son of- Dineshwar Pd Ray, Resident of- Near School, Bilaspur Ward No. 19, P.S.- Ramnagar, District- West Chaparan.
3. Poonam Dwivedi, Wife of Rajesh Kishore Dwivedi, Resident of Ward No. 11, Arya Nagar, P.S.- Ramnagar, District- West Champaran.
4. Bhuneshwar Agrawal, Son of- Late Satyanarayan Prasad, Resident of Ward No. 16, Purani Bazar, P.S.- Ramnagar, District- West Champaran,
5. Brijesh Ojha, Son of- Suresh Ojha, Resident of- Ward No. 19, Bilaspur, P.S.- Ramnagar, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar Patna.
2. The Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. Additional Secretary, Urban Development and Housing Department. Government of Bihar, Patna.
4. Deputy Secretary, Urban Development and Housing Department. Government of Bihar, Patna.
5. District Magistrate, West Champaran at Bettiah.
6. Sub Divisional Officer, Bagha, District West Champaran at Bettiah.
7. Executive Officer, Ramnagar Nagar Parishad, District- West Champaran at Bettiah.
8. Ramnagar Nagar Parishad, through Executive Officer, Ramnagar Nagar Parishad, District- West Champaran at Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kr. Singh, Advocate Mr.Ashok Kumar, Advocate Mr.Bibhuti Narayan, Advocate
For the Respondent/s	:	Mr.Government Pleader 17 Mr.Amit Bhushan, AC to GP-17
For Nagar Parishad Ramnagar	:	Mr.Siddhartha Shankar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 01-07-2024

1. The present writ petition has been filed seeking



the following relief(s):-

“1(A) For quashing the order contained in letter no. 231 dated 14.04.2023 (Annexure-P/6) A issued by respondent no. 5 whereby and whereunder, on the basis of ex-parte enquiry and enquiry report the petitioners have been asked for show cause and further after refusing the explanation recommendation has been sent before the State Government for taking action against the petitioners.

(B) For quashing the order contained in letter no.1635 dated 05.06.2023 and 6750 dated 17.10.2023 (Anx-P/7,P7A) whereby and whereunder, the petitioners have been asked for explanation on the basis of enquiry report submitted by the respondent no. 5.

(C) For giving direction not to make interference in day to day functioning of Nagar Parishad by the local Administration without any enquiry, direction and approval by the State Government.”

2. The learned senior counsel for the petitioners has submitted that the power to make an enquiry/inspection is subject to authorization by the State Government and deputation of officers for the said purpose, however, in the present case, the District Magistrate, West Champaran at Bettiah, on a complaint received by him, had on his own



volition constituted a committee comprising of Assistant Engineer, Building Sub-Division, Bagha, Executive Magistrate, Bagha and Senior Treasury Officer, Bagha to conduct an inquiry into the financial irregularities, alleged to have been committed by the petitioners, instead of referring the matter to the State Government, as per the mandate of Section 66 of the Bihar Municipal Act, 2007, nonetheless, it is contended by the learned senior counsel for the petitioners that in case the State Government wishes to proceed ahead, it should first give an opportunity to the petitioners to put forthwith their defense and after considering the materials on record, it should come to a categorical finding as to whether any action/penal action is required to be taken qua the petitioners.

3. At this juncture, the learned senior counsel for the petitioners has referred to the provisions, contained in the Bihar Municipal Act, 2007, Sections 65 to 67, whereof are reproduced hereinbelow:-

“65. Power of State government to call for the records etc.- The State Government may, at any time, require any municipal authority-
(a) to produce any record, correspondence, or other documents,
(b) to furnish any return, plan, estimate,



statement, accounts, or , statistics, and
(c) to furnish or obtain any report and
thereupon such municipal authority shall
comply with such requirement.

66. Power of State government to depute officers to make inspection or examination and report.- *The State Government may depute any of its officers to inspect or examine any department, office, service, work or property of the Municipality and to report thereon, and such officer may, for the purpose of such inspection or examination, exercise all the powers of the State Government under section 65:*

Provided that such officer shall be not below the rank of -

(a) a Deputy Secretary to the State Government in the case of a Municipal Corporation, and municipal council of class "A" and "B",

(b) an Under Secretary to the State Government in the case of a Class 'C' Municipal Council or Nagar Panchayat, as the case may be.

67. Power of State Government to require municipal authorities to take action.- *If, after considering the records required under section 65, or the report*



under section 66, or any information received by Government the State Government is of opinion that -

(a) any action taken by a municipal authority is unlawful or irregular or any duty imposed on such authority by or under this Act has not been performed or has been performed in an imperfect, insufficient or unsuitable manner; or

(b) adequate financial provision has not been made for the performance of any duty under this Act, the State Government may, by order, annul such action, or require such municipal authority to regularize such unlawful or irregular action or perform such duty or restrain such authority from taking such unlawful or irregular action or direct such authority to make, to the satisfaction of the State Government or within such period as may be specified in the order, arrangement, or financial provision, as the case may be, for the proper performance of such duty:

Provided that the State Government shall, unless in its opinion the immediate execution of such order is necessary, before making an order under this section,



give such municipal authority, in writing, an opportunity of showing cause, within such period as may be specified by the State Government, why such order should not be made.”

4. Thus, it is the submission of the learned senior counsel for the petitioners that the government should grant ample opportunity to the petitioners to put forthwith their defense prior to taking any action/penal action.

5. Per contra, the learned counsel for the respondent-State has submitted by referring to the counter affidavit, filed in the present case that pursuant to a complaint, made with regard to the irregularities, committed by the petitioners, in the matter of purchase of dustbins and other things for the Nagar Panchayat, Ramnagar, now upgraded to Nagar Parishad, Ramnagar, the District Magistrate, West Champaran at Bettiah, had constituted a Three Men Committee to inquire into the matter, whereafter report was submitted and then the District Magistrate, West Champaran at Bettiah had sent his recommendations to the Urban Development and Housing Department, Government of Bihar, Patna, vide letter dated 14.04.2023 for taking appropriate action against the Chairman and members of the Standing Committee of Nagar



Parishad, Ramnagar, including its Executive Officer for the irregularities committed in course of purchase of dustbins and other things for the Nagar Parishad, Ramnagar. It is also submitted that the State Government has then issued show-cause notices to the petitioners and the matter is pending at the level of the State Government.

6. I have heard the learned counsels for the parties and have gone through the materials on record and I find that two show cause notices have already been issued to the petitioners by the State Government, vide notices dated 05.06.2023 and 17.10.2023, issued by the Deputy Secretary to the Government, Urban Development and Housing Department, Government of Bihar, Patna and the Additional Secretary, Urban Development and Housing Department, Government of Bihar, Patna, respectively, hence it is incumbent upon the petitioners to file their wholesome reply to the said notices, putting forth their defense.

7. In such view of the matter, the learned senior counsel for the petitioners seeks liberty on behalf of the petitioners to file their replies, within a period of four weeks from today. Liberty so sought is granted. It is needless to state that in case appropriate replies are filed by the petitioners,



within a period of four weeks from today, the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna shall consider the same and take an independent view of the matter, as to whether any action/penal action is required to be taken, against the petitioners or not and till then no coercive action shall be taken against the petitioners.

8. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.07.2024
Transmission Date	NA

