

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4955 of 2023

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Dr. Ashish Kumar Sinha S/o Rajendra Prasad Gulab Bagh Market, P.S.-
Sampatchak, Bankipore, Patna-800004

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secrerary, Government of Bihar, Patna.
2. The Principal Secretary, The Urban Development and Housing Department,
Government of Bihar, Patna.
3. The Municipal Commissioner, Patna Municipal Corporation.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Mayuri, Advocate
For the Respondent/s : Mr. Abbas Haider (SC-6)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

12 10-09-2024 Heard Miss. Mayuri, learned counsel for the

petitioner and also Mr. Prasoon Sinha representing the Patna

Municipal Corporation duly assisted by Mr. Prabhat Kumar and

Mr. Ravish Chandra (AC to SC-6)

2. The present writ petition has been preferred for the

grant of following relief/s:-

*“(i) Issuance of a direction, order or
writ, including a writ in the nature of
certiorari quashing the Letter Number 2744
dated 02.03.2023 whereby five employees of
Patna Municipal Corporation have been
transferred without any consultation with the
Empowered Standing Committee.*

*(ii) Issuance of a direction, order or
writ, including a writ in the nature of*



Mandamus directing the Respondent Number 3 to show cause as to under what authority of law the aforesaid transfers were made by him.

(iii) Issuance of a direction, order or writ, including a writ in the nature of mandamus directing the Respondent Number 3 to maintain status quo of the Officers of the Patna Municipal Corporation during the pendency of the decision of this Hon'ble Court.

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

3. Challenge in the present writ petition is the order passed by the Municipal Commissioner, Patna Municipal Corporation vide Memo No. 2744 dated 02.03.2023 by which five of its employees will giving new posting in different wards. (Annexure 1 to the petition).

4. Though none of the said transferred employee is/are before this Court, one of the ward member of Patna Municipal Corporation who is also the member of the Empower Standing Committee approached this Court on the ground that as per Section 27(B)(2) of the Bihar Municipal Act, 2007



(henceforth for short as 'the Act').

5. It is the contention of the Patna Municipal Corporation that it is not a case of any transfer rather they have been shifted from one ward to another and even the order in question clearly shows that till the next order, they have been posted. The petitioner has wrongly stated in the writ petition that it is a case of transfer, rather, it is a case of posting of the five employees due to the exigencies in the Patna Municipal Corporation and none of them are aggrieved.

6. It is the further stand of the Patna Municipal Corporation that since it is not a case of transfer, it cannot in any way can be said that the power of the Empowered Standing Committee have been usurped.

7. The State respondents have also filed Counter Affidavit and according to them, the stand that has been taken that none of the affected employee is before this Court and as such, the petitioner do not have any *locus standi* to file the writ petition.

8. From the writ petition, it is not clear under what capacity, the petitioner has approached this Court. In the writ petition, there is no such authorization of the Empowered Standing Committee, however, it is only by way of rejoinder



which has been filed on 5th of September, 2024 that a resolution of the Empowered Standing Committee has been brought on record to show that the petitioner was authorized.

9. Further, a perusal of the order justifies the stand of the Patna Municipal Corporation that it is not a case of transfer rather shifting of employees for a temporary period from one ward to another. It thus cannot in any way be clubbed in the category of transfer, rather it is a case of posting and merely five employees have been shifted from one ward to another. The order nowhere speaks of transfer and as such the apprehension of the petitioner that the powers of the Empowered Standing Committee have been usurped is ill founded.

10. The aforesaid facts takes this Court to only one conclusion. The writ petition is bereft of merit. It is accordingly dismissed.

(Rajiv Roy, J)

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