

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5890 of 2024

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1. Sangeeta Devi Wife of Sikandar Paswan @ Sikandar Paswan, Resident of Village- Amritpur, P.S. Vaishali, District- Vaishali.
 2. Sanjeev Kumar, Son of Mahesh Ram, Resident of Village- Salempur, Block- Vaishali, P.S.- Lalganj, District- Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Government of Bihar at Patna.
2. The Principal Secretary, Bihar State Panchayati Raj, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department of Bihar, Patna.
4. The District Magistrate, Vaishali at Hajipur.
5. The Executive Engineer, Local Regional Engineering Corporation Office Range, Hajipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shakil Ahmad Khan, Advocate
For the Respondent/s : Mr. Government Pleader 7

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 23-07-2024 Heard the parties.

2. The present petition has been preferred for the following reliefs:-

(i) for issuance of an appropriate writ in the nature of Certiorari for quashing the part of the order dated 03.05.2023 issued under the signature of Respondent no. 2 and contained in his memo no. 4881 dated 03.05.2023 and more particularly the decision with respect to divergent of funds of Gram Panchayat for construction of Panchayat Sarkar Bhawan in the left over Gram Panchayats of the



State as contained in paragraph no. 5(v) and 8(v) of the said order on the ground that in view of the provisions contained under Article 243 (d) of the Constitution of India, Section- 2(w) and Section-26 (5) and (6) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the Gram Panchayat Act), if every Gram Panchayat has been conferred power to spend such sums from Gram Panchayat fund as it thinks fit for carrying out the purposes of the Act, the State Government is not competent to issue the impugned order directing for construction of Panchayat Sarkar Bhawan in the left over Gram Panchayats of the State from the funds of the Gram Panchayat and it has also no jurisdiction to divert the funds at the disposal of any other authority;

(ii) for issuance of an appropriate writ in the nature of certiorari for quashing the again Tender No. 03 CSBD @ 2023-24 issued under the signature of the Respondent no. 5 contained in his memo no. PR No. 017760 (Planning) 2023-24, whereby and where under the Respondent no. 5 has been pleased to issue instruction for construction of Panchayat Bhawan in the Gram Panchayat of the State and the petitioners Gram Panchayat's and power to select the Contractor Agency for Construction of Panchayat Building;

(iii) for a declaration that after Seventy-Third Constitutional Amendment Act. 1992 the Gram Panchayats has been conferred the status of an Institution of Local Self Government and under



Section 26(5) of the Gram Panchayat Act, a fund has been created for every Gram Panchayat and under Sub-Section-6 of section-25 of the Gram Panchayat Act every Gram Panchayat has been vested with the power to spend such sums from the said fund as it may think fit for carrying out the purposes of the Act, no authority or not even the State Government can issue any direction for diversion of funds of the Gram Panchayat for any other purpose and equally no authority can be created to spend the funds of the Gram Panchayat;

(iv) for issuance of an appropriate writ in the nature of Mandamus, commanding and directing the Respondent Authorities to allow the Gram Panchayats to function as an Institution of Local Self Government, to undertake its responsibilities as created upon it by the Seventy-Third Constitutional Amendment Act, 1992 read with Schedule-11 of the Constitution of India which provides in detail the responsibilities which the Panchayat has to undertake after its constitution;

(v) the petitioner would further pray for issuance of an appropriate writ in the nature of Mandamus, restraining the Respondent State not to interfere in the power and function of the Gram Panchayat as contemplated under Constitution of India and the Bihar Panchayat Raj Act, 2006 and allow the Gram Panchayats to function as a vibrant Institution of Local Self Government which was the object and spirit of Seventy-Third



Constitutional Amendment;

(vi) for issuance of an appropriate writ in the nature of Mandamus, commanding and directing the Respondent Authorities to allow the Gram Panchayats to spend its fund as per the decision of the Gram Panchayat and not to compel the Gram Panchayats to undertake any scheme within the Gram Panchayat area which is not the scheme of the Gram Panchayat and it has been launched by the State Government even if it is to be implemented under the territorial jurisdiction of the Gram Panchayat.

3. Learned Counsel for the petitioner submits that it will suffice if he is allowed to approach the District Magistrate, Vaishali at Hajipur for the redressal of his grievance.

4. Granting said liberty, the writ petition stands disposed of.

(Rajiv Roy, J)

Neha/-

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