

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9143 of 2023

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Krishnanand Jha Son of Late Gopal Narayan Jha Resident of Village-Madanpur, Ward No.4, P.O. Rataul, P.S. Lakhnour (R.S. Jhanjharpur), District-Madhubani, Presently Mukhiya of Gram Panchayat Raj, Madanpur, Block-Lakhnour, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The Divisional Commissioner, Darbhanga Division, Darbhanga.
5. The District Magistrate, Madhubani District-Madhubani.
6. The District Panchayat Raj Officer, Madhubani District-Madhubani.
7. The Sub-Divisional Officer, Jhanjharpur, District-Madhubani.
8. The Block Development Officer, Lakhnour, District-Madhubani.
9. The Block Panchayat Raj Office, Lakhnour, District-Madhubani.
10. The Panchayat Secretary, Gram Panchayat Raj, Madanpur, Block-Lakhnour, District-Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Manglam, Advocate
		Mr. Awnish Kumar, Advocate
For the Respondent/s	:	Mr. Ajay (Ga5)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 19-01-2024

Heard Mr. S.B.K. Manglam along side Mr. Awnish Kumar, learned counsels appearing on behalf of the petitioner and Mr.Ajay, learned GA 5 for the State.

2. Petitioner has filed the writ petition *inter alia* for following relief(s):-

(I) For issuance of an appropriate writ in the nature of certiorari for quashing the paragraph no.2 of the



Notification dated 23.11.2022 issued under the signature of Respondent no.2 and contained in his memo no.11251 dated 23.11.2022, whereby and where under the power of hearing of a complaint under 18(5), 44(4), 70(5) and 97(5) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the Gram Panchayat Act) has been vested in Divisional Commissioner and it has been further directed that the State Government would pass an order of removal of the office bearers of the Gram Panchayat on the recommendation of the Divisional Commission and the Divisional Commissioner has been declared "Lok Prahari" for the districts under Section 152(5) of the Gram Panchayat Act.

(ii) For a declaration that if under Section 18(5), 44(4), 70(5) and 97(5) of the Gram Panchayat Act, the power has been vested in the State Government for removal of office bearers of the Gram Panchayat after giving the office bearers, a reasonable opportunity of explanation and a Lok Prahari constituted under Section 152(5) of the Gram Panchayat Act for enquiry and recommendation to the State Government authorization to the Lok Prahari for hearing the complaint following the principles of NATURAL JUSTICE is thoroughly illegal and without jurisdiction.

(iii) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the letter dated 07.02.2023 (wrongly typed as 07.02.2022) issued under the signature of the respondent no.5 and contained in his memo No.517 dated 07.02.2023, whereby and whereunder the Respondent no.5 has recommended to respondent no.4 for action against the petitioner under Section 18(5) of the Gram Panchayat Act on the basis of report submitted by the Sub-Divisional Officer, Jhanyharpur on the ground that after notification of the State Government under Section 152(5) of the Gram Panchayat Act, the enquiry into the



affairs of a Gram Panchayat can only be made by the Divisional Commissioner or any person authorized by him and it is only on consideration of the report by said authority that the Respondent no.4 can recommend the matter of the State Government for action under Section 18(5) or other similar provisions of the Gram Panchayat Act and therefore, the recommendation of Respondent no.5 for action against the petitioner under Section 18(5) of the Gram Panchayat Act is without jurisdiction.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. Considering the reliefs, as sought for in the present writ petition, it is made clear that any hearing for the purposes of enquiry before the Lok Prahari, who has been appointed under Section 152(5) of the Bihar Gram Panchayat Act, 2006 (hereinafter referred to as "the Act"), will not amount to final order in any manner because the parties are required to be heard to arrive at a definite finding by the Additional Chief Secretary on the basis of the inquiry under Section 18(5) of the Act.

4. In the present case, it appears that the Sub-Divisional Officer, Jhanjharpur has exceeded his jurisdiction by submitting his report for taking action against the petitioner before the District Magistrate, Madhubani and the District Magistrate vide communication dated 07.02.2023 has recommended for the same, as no such power has been



conferred under the Act to him. If the Sub -Divisional Officer has any information, he can place those informations before the Divisional Commissioner-cum-Lok Parhari.

5. With aforesaid observation, the writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2024
Transmission Date	NA

