

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18177 of 2022

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Guddi Devi Wife of Sri Shiv Kumar Singh, Resident of Village- Jiwanpatti, P.O.- Khaira, Block- Bahadurpur, P.S- Bahadurpur, District- Darbhanga- 847101, at present of Member of Panchayat Samittee of Gram Panchayat Raj Rambhadrapur.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, State of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Panchayati Raj Department, State of Bihar, Old Secretariat, Patna.
3. The District Magistrate, Darbhanga.
4. The Director, District Rural Development Authority-Cum-Senior-In Charge Officer, Bahadurpur Block, Darbhanga.
5. The Block Development Officer, Bahadurpur Block- At and P.O. and P.S.- Bahadurpur, District- Darbhanga- 847101.
6. Khushbu Kumari Junior Engineer and the then Technical Assistant Bahadurpur Block, At and P.O. and P.S.- Bahadurpur, District- Darbhanga- 847101.
7. Sri Mohit Mishra, Junior Engineer and the present Technical Assistant Bahadurpur Block, At and P.O. and P.S.- Bahadurpur, District- Darbhanga- 847101.
8. Smt. Rubi Raj Wife of Sri Rajesh Sahani, Resident of Village- Raja Rolley, P.O.- Banauli, Panchayat- Jalwar-847428, Block- Bahadurpur, P.S.- Simari, District- Darbhanga -847101, at present Block Pramukh of Bahadurpur Block.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Praveen Prabhakar, Advocate
For Respondent No. 8	:	Mr. S.B.K. Mangalam, Advocate
For the Respondent/s	:	Mr. Kameshwar Prasad Gupta, GP- 10

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

8 01-02-2024 Heard Mr. Praveen Prabhakar, learned Counsel

appearing on behalf of the petitioner; Mr. S.B.K. Mangalam,

learned counsel appearing on behalf of the respondent no. 8 and

Mr. Kameshwar Prasad Gupta, learned GP- 10 appearing on

behalf of the respondent/s.

2. Learned counsel appearing on behalf of the petitioner submits that petitioner is an elected member of Panchayat Samiti of Bahadurpur Block, P.O. and P.S.- Bahadurpur, District- Darbhanga and he has found that the Pramukh in connivance with the Block Development Officer and Junior Engineer, has misappropriated a sum of Rs.72,00,000/- allotted by the Government for developmental works to the Panchayat Samiti of Gram Panchayat Raj Bahadrapur, under 5th, 6th and 15th Finance Schemes. Specific allegation made by the petitioner is that of transferring the fund from the account of Panchayat Samiti to the personal account of Smt. Rubi Raj, Block Pramukh of Bahadurpur Block. Learned counsel further submits that the fund, which was transferred by respondent no.8 in a firm M/s Rubi Raj is owned by respondent no. 8. The respondent no.8 being the Pramukh of the Panchayat, while filing of the nomination paper, had undertaken that she is not earning from any other source. Referring to Annexure-E1, learned counsel submits that it has been clarified by the State Government vide letter no.2764 dated 24.07.2023 that no purchasing can be done form any firm, which is owned by the office bearer or by the family members of the office bearer.

Petitioner being Pramukh of the Panchayat Samiti has violated the same by transferring the amount of fund in a firm owned by her. It is also submitted that such transfer is contrary to the rules and without jurisdiction, which has hampered the developmental work in the Panchayat.

3. *Per contra*, Mr. S.B.K. Mangalam, learned counsel appearing on behalf of the respondent no. 8 submits that the petitioner before filing of the present writ petition had filed an application under Right to Information Act, 2005 to the Public Information Officer-cum-Block Development officer, seeking information regarding completion of work and action against the guilty persons. It is further submitted that no misappropriation in violation of any provision of the Bihar Panchayat Raj Act, 2006 and Rules framed therein in transferring of funds was made rather, the fund has been transferred in the account of M/s Rubi Raj, a firm owned by the respondent no. 8, who is the Pramukh of the Panchayat Samiti and it is registered under the provision of Goods and Services Act, 2017. The said Firm also files its Income Tax Return and the company is duly audited, which deals with the supply of construction materials. Learned counsel submits that as the matter is pending before the Additional Chief Secretary, Panchayati Raj Department, there is

no requirement of interference by this Court at this stage and relies on the order dated 22.11.2023 passed in CWJC 13462 of 2023.

4. Learned counsel appearing on behalf of the State submits a joint inspection was made by the District Magistrate, Darbhanga- cum- Deputy Collector and Block Development Officer, Bahadurpur, Darbhanga and upon enquiry, it has been found that respondent no. 8 is running a firm in name of M/s Rubi Raj, which is registered to the Commercial Taxes Department and the Income Tax Department and it has been informed that the agency and the members can be held responsible for misappropriation.

5. Having considered the rival submissions made on behalf of the parties, as well as, the fact that the writ petition has been filed primarily against the members of the Panchayat Samitti and the Pramukh, it is admitted that the Pramukh (respondent no. 8) runs a firm in the name of M/s Rubi Raj and Enquiry report submitted by the Director, DRDA, as well as, the report submitted by the District Magistrate also confirms the fact that the respondent no. 8 is the owner of a firm in name of M/s Rubi Raj. Parties have admitted that the matter relates to misappropriation of public fund fund and equitable distribution

of public fund is pending before the Additional Chief Secretary. However, the parties have not been able to inform this Court that, as to whether, in accordance with the provision of Section 152 of the Act, 2006, the Additional Chief Secretary has directed for an enquiry into the matter by the Lok Prahari.

6. This Court finds that the nature of the complaint made in the present writ petition is serious one. Pramukh can not transfer huge amount to the firm owned by her namely, M/s Rubi Raj, which is also contrary to the provision of the Act, as well as, the Government Circular No.2764. The State Government is required to ensure that if the Pramukh (respondent no.8) has misappropriated the Government fund along with other members of the Panchayat Samiti, then in that case, he may take appropriate action on the basis of the enquiry report submitted by the Lok Prahari exercising his power under Section 44 (4) of the Bihar Panchayat Raj Act, 2006.

7. The State Counsel is directed to communicate the Lok Prahari of the District to enquire into the matter by submitting a copy of the writ petition to the Lok Prahari, so that he can expeditiously enquire into the matter and submit a report within a period of 3 weeks from the date of passing of this order.

8. The Additional Chief Secretary upon receipt of the

enquiry report from the Lok Prahari must proceed to adjudicate into the matter and take appropriate action in accordance with law, within a period of 6 weeks after giving due opportunity of hearing to all the affected parties in accordance with law.

9. With the aforesaid direction/observation, the present writ petition stands disposed of.

(Purnendu Singh, J.)

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