

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18577 of 2023

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Rajesh Son of late Rameshwar Giri, Resident of House No. 367, Giri Niketan,
Mohalla Nehru Nagar, P.O.- P.S. Patliputra, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. 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

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Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar, Advocate
For the State	:	Mrs.Pushpanjali Sharma, AC to SC-20
For Resp. No.7 and 8	:	Mr.Siddharth Shankar Pandey, Advocate

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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 petitioner has been asked for
show cause and further after refusing the
explanation recommendation has been sent*



before the State Government for taking action against the petitioner.

(B) For quashing the order contained in letter no.4543 dated 29.08.2023 and 8039 dated 28.11.2023 (Anx-P/7,P7A) whereby and whereunder, the petitioner has 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 petitioner 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 petitioner and others, 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 petitioner that in case the State Government wishes to proceed ahead, it should first give an opportunity to the petitioner to put forthwith his defense and after considering the materials on record, it should come to a categorical finding as to whether initiation of any proceeding is necessary or not, as far as the petitioner, is concerned.

3. At this juncture, the learned senior counsel for the petitioner 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 petitioner that the government should grant ample opportunity to the petitioner to put forthwith their defense prior to taking any action or initiating a departmental proceeding.

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 petitioner, 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, i.e. the petitioner herein, 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 notice to the petitioner 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 show cause notice has already been issued to the petitioner by the State Government, vide notices dated 29.08.2023 and



28.11.2023, under the pen and signature of the Project Officer-cum-Deputy Director, Urban Development and Housing Department, Government of Bihar, Patna, hence it is incumbent upon the petitioner to file his wholesome reply to the said notices, putting forth his defense.

7. In such view of the matter, the learned senior counsel for the petitioner seeks liberty on behalf of the petitioner to file his reply, within a period of four weeks from today. Liberty so sought is granted. It is needless to state that in case appropriate reply is filed by the petitioner, 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 departmental proceeding is required to be initiated against the petitioner or not and till then no coercive action shall be taken against the petitioner.

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

