

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3806 of 2025

Shivji Das S/o Sahdev Das, R/o- Ward- 05, Village- Pakri Tole- Hanuman Nagar, P.S.- Riga, District- Sitamarhi- 843302.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The Director, Panchayati Raj Department, Government of Bihar, Patna.
3. The District Magistrate, Sitamarhi, Bihar.
4. The District Panchayat Raj Officer, Sitamarhi, Bihar.
5. The Executive Officer cum Block Development Officer (Panchayat Samiti), Riga Sitamarhi.
6. The Circle Officer, Riga, Sitamarhi.
7. The Mukhiya, Gram Panchayat Pakri Mathwa, P.O. and P.S.- Riga, Sitamarhi, Bihar, through The executive Officer cum Block Development Officer (Panchayat Samiti), Riga, Sitamarhi.
8. The Panchayat Sachiv, Gram Panchayat Pakri Mathwa, P.O. and P.S- Riga, Sitamarhi, Bihar, through The executive Officer cum Block Development Officer (Panchayat Samiti), Riga, Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bipin Bihari, Advocate
For the State : Mr. Mithilesh Kumar Upadhyay, AC to GP-3

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 24-03-2025 Heard Mr. Bipin Bihari, learned counsel for the petitioner and Mr. Mithilesh Kumar Upadhyay, learned counsel for the State.

2. The writ petition has been filed for the following reliefs:-

(i) To issue a writ of Certiorari/Mandamus or any other appropriate writ, order, or direction, quashing and setting aside the



impugned notice issued vide Memo No.-09 dated 11-02-2025 by Respondent No. 8 on the direction of Respondent No. 7 in light of the order dated 11-02-2025 issued vide Memo No.-186 by Respondent No 5, whereby the information to convene a Gram Sabha on 18-02-2025 at 12:00 noon at Panchayat Bhawan, Pakri, for approval of the Gram Sabha regarding the land measuring 27.5 decimal (Type: Crematorium) located at Mauza-Basantpur Pakri, Thana No.-278, Khata No-1282, Kesra No-127, marked and located by Respondent No. 6 for the construction of Panchayat Sarkar Bhawan, was communicated to all the residents of Pakri Mathwa Gram Panchayat, in complete disregard of Rule 3(2) and Rule 3(3) of the Bihar Gram Sabha (Co-ordination of Meeting and Procedure for Conduct) Rules, 2012, which mandate that only the Mukhiya or Up-Mukhiya can convene the Gram Sabha. Further, the general instructions issued by the Panchayati Raj Vibhag related to the selection of the site for the construction of Panchayat Bhawan specifically state that the site selection must be conducted through the Gram Sabha. Hence, the impugned notice issued vide Memo No.-09 dated 11-02-2025 by



Respondent No. 8 is arbitrary, illegal, violative of the Principles of Natural Justice, and is fit to be quashed.

(ii) To declare Gram Sabha dated 18-02-2025 illegal and quash its subsequent outcome/decision, being violative of mandate and provision of Rule 3(2) and Rule 3(3) of the Bihar Gram Sabha (Co-ordination of Meeting and Procedure for Conduct) Rules, 2012.

(ii) To declare the action of the Respondents particularly Respondent no. 5 & 6 in marking and locating the proposed site for the construction of Panchayat Bhawan without prior approval from the Gram Sabha as illegal, arbitrary, and without jurisdiction.

(iv) To direct the Respondents to conduct any future Gram Sabha meetings strictly in accordance with the Bihar Gram Sabha Rules and the general instructions issued by the Panchayati Raj Bibhag, Government of Bihar.

(v) To direct the Respondents to mark and locate the site strictly in accordance with the general instructions issued by the Panchayati Raj Vibhag, Government of Bihar which specifically state that the site selection must be conducted through the Gram Sabha.



(vi) Prayer is also made to stay the operation of information issued vide Memo No.-09 dated 11-02-2025 by Respondent No. 8 during the pendency of this Writ Application.

(vii) Any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner is registered under electoral roll of Pakri Mathwa Gram Panchayat, Riga, District-Sitamarhi, Bihar. He further submits that the petitioner has come to know that the respondent no.7 i.e. Mukhiya, Pakri Mathwa Gram Panchayat has provide no objection certificate regarding the land measuring 27.5 decimal located at Mauza-Basantpur Pakri, Thana No-278, Khata No-1282, Kesra No-127 marked and located by respondent No.6 for the construction of Panchayat Sarkar Bhawan.

4. Learned counsel for the State has taken preliminary objection with regard to maintainability of the writ petition and submits that number of orders have been passed by Division Bench of this Court that the location of Panchayat Bhawan is for the executive to decide and not for the Court to supplement its opinion. It shall be wholly inappropriate of this Court to



approve executive power to decide the location of Panchayat Bhawan and in the present case the grievance of the petitioner is that the Panchayat Sarkar Bhawan is being constructed at different plots. Although the Gram Sabha has taken a decision for construction of the Panchayat Bhawan in another location and Division Bench this Court in CWJC No. 23833 of 2013 by order dated 09.12.2013 has opined that the location of Panchayat Bhawan is more of an executive policy matter and it is not for the Court to decide whether one location is better than the other and in the recent order passed by the Division Bench of this Court in CWJC No. 3282 of 2023 decided on 07.04.2023 which is quoted hereinbelow:-

“The averments in the writ petition discloses that all the petitioners were public representatives of the Gram Panchayat in question at the time the earlier site was selected in 2021. They have alleged that the Gram Sabha comprising of present members and Mukhiya have now initiated shifting of the proposed site for construction of the Panchayat Sarkar Bhawan to a place which is not suitable.

Whether the Panchayat Sarkar Bhawan is constructed at site A or B is an issue best left to the people's representatives in the local self government institutions as well as the



local authorities to decide based on various factors/parameters Such a decision is essentially a matter of policy.

This Court is, therefore, not inclined to exercise its discretionary jurisdiction in respect of such policy matters.”

5. Learned counsel for the State further submits that apart from that as per the guidelines of the State Government with respect to construction of the Panchayat Bhawan vide dated 07.07.2015, paragraph-4 of that letter suggest that-

"माननीय उच्च न्यायालय पटना में पंचायत सरकार भवन के स्थल आदि से संबंधित दायर रिट याचिका सी०डब्लू० जे०सी० सं० 18446/2013 भूप नारायण ठाकुर बनाम राज्य सरकार एवं अन्य में खंडपीठ द्वारा पारित न्यायादेश दिनांक 26.09.2013, सी०डब्लू० जे०सी० सं० 23833/2013 रामकिशोर ठाकुर एवं अन्य बनाम राज्य सरकार एवं अन्य में खंडपीठ द्वारा पारित न्यायादेश दिनांक 09.12.2013 तथा सी०डब्लू० जे०सी० सं० 19585/2013 राजपाल मिश्रा बनाम राज्य सरकार एवं अन्य में एकलपीठ द्वारा पारित न्यायादेश दिनांक 21.01.2015 में यह प्रेक्षण किया गया है कि पंचायत सरकार भवन की अवस्थिति तथा निर्माण आदि के संबंध में निर्णय लेना कार्यपालिका नीति का विषय है और इसमें न्यायिक हस्तक्षेप वांछनीय नहीं है।"

6. Considering the aforesaid facts as well as the order of this Hon'ble Court, no case is made out for interference of



this Court.

7. Accordingly, this writ petition is dismissed.

(Rajesh Kumar Verma, J)

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