

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4286 of 2026

Binod Kumar, Son of Sadhu Sharan Prasad, Resident of Village and Post
Office- Baksanda, Police Station+ Block- Akbarpur, District- Nawadah.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
2. The Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The Divisional Commissioner-cum-Lok Prahari, Magadh Division, Gaya.
4. The District Magistrate, Nawadah.
5. The Deputy Development Commissioner (i.e. D.D.C), Nawadah.
6. The Senior Deputy Collector, Nawadah.
7. The District Panchayati Raj Officer, Nawadah.
8. The Block Development Officer, Akbarpur, District- Nawadah.
9. The Block Panchayati Raj Officer-cum-Executive Officer, Panchayat Samittee, Akbarpur, District- Nawadah.
10. The Panchayat Secretary, Gram Panchayat Raj, Baksanda, Block-Akabarpur, District- Nawadah.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Advocate
		Mr. Arun Kumar, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date : 08-07-2026

Heard Mr. P.N. Shahi, learned Senior counsel assisted
by Mr. Arun Kumar, learned counsel for the petitioner and Mr.
Sanjay Kumar Ghosarvey, learned counsel for the State of
Bihar.

2. The petitioner has filed the instant application for
the following reliefs :-



“(i) For issuance of a writ in the nature of certiorari setting aside the impugned order bearing Memo No. 3734 dated 26.02.2026 issued under the signature of Respondent No. 2 whereby and whereunder in purported exercise of power under Section 18(5) of Bihar Panchayat Raj Act, petitioner being elected Mukhiya of Gram Panchayat, Baksanda under Block- Akbarpur, District- Nawadah has been removed from the post of Mukhiya and has been declared in eligible for election of any Panchayat Bodies till further 5 years from the date of the order (Annexure-P/11)

(ii) For issuance of an appropriate writ/order/direction in nature of certiorari setting aside the report of Lok Prahari-cum-Divisional Commissioner, Gaya (Respondent No. 3) dated 14.06.2024 (Annexure-P/8) whereby and whereunder without conducting any enquiry in view of Section 152(5) of Bihar Panchayat Raj Act read with Section 18(5) of the Act despite having issued Official Gazette dated 28.11.2022 in respect of declaration of Respondent No. 3 as Lok Prahari but only relying upon enquiry report submitted by Respondent District Magistrate, Nawadah it has been conducted that petitioner is guilty under Section 18(5) of the Bihar Panchayat Raj Act 2006 which is not proper in the eye of law.

(iii) For further quashing the Letter No. 2334 dated 18.11.2023 issued from the level of Respondent District Magistrate, Nawadah



(Respondent No. 4) which is addressed to Respondent No. 3 whereby relying upon enquiry report conducted by Respondent No. 6 to Respondent No. 5 without supplying the said enquiry report to the petitioner prior make to necessary recommendation is in gross violation of Principle of Natural Justice as also non application of judicial mind of Respondent No. 4 causing much prejudice to the petitioner.

(iv) For issuance of an appropriate writ/order/direction in the nature of mandamus commanding and directing upon the Respondents concerned to reinstate the petitioner to the post of Mukhiya of Baksanda Gram Panchayat Raj with consequential reliefs.

(v) For issuance of any other relief/reliefs for which the petitioner is found entitled to in the facts and circumstances of the case by this Hon'ble Court."

3. The case of the petitioner in brief is that he was elected as *Mukhiya* of Gram Panchayat Raj, Baksanda under block- Akbarpur in the district of Nawada on 20.11.2021.

4. As per the petitioner's case, after holding *gram sabha* certain schemes were earmarked on priority for executing the same from the funds made available under the Sixth State Finance Commission recommendation. A sum of Rs.3,70,400/- on 30.4.2022 and Rs.4,64,300/- on 4.5.2022 i.e. a total sum of Rs.8,34,700/- was withdrawn by the Panchayat Secretary for



execution of the scheme. On an objection being raised by the Technical Assistant (Junior Engineer) that till date he had not received any official letter for execution of the schemes from the fund made available under the Sixth Finance Commission to the panchayat, the petitioner directed the Panchayat Secretary not to execute the scheme and the entire amount was returned back by crediting the same in the nodal account of the panchayat on 15.6.2022.

5. A complaint was filed by a ward member of the panchayat on 24.7.2023 before the Deputy Development Commissioner, Nawada ('DDC' in short) alleging that a total sum of Rs.8,34,700/- had been withdrawn from the account of the Sixth State Finance fund in conspiracy with the *Mukhiya* and the Panchayat Secretary. The said amount was retained for 45 days and on an oral complaint being made before the Block Development Officer and the Block Panchayat Raj Officer, the amount had been deposited in the Government account. A notice dated 20.9.2023 was issued by the DDC, Nawada to the petitioner that the matter was got inquired into by the Senior Deputy Collector, Nawada who submitted his report dated 8.9.2023 recommending action under section 18(5) of the Bihar Panchayat Raj Act, 2006 (herein after referred to as 'the Act').



The petitioner submitted his explanation on 25.9.2023 denying the allegations levelled in the notice.

6. A letter dated 18.11.2023 was written by the District Magistrate, Nawada to the Divisional Commissioner–cum–*Lok Prahari*, Magadh Division, Gaya enclosing the inquiry report dated 8.9.2023 of the Senior Deputy Collector, Nawada. Having received the notice from the Office of the Divisional Commissioner–cum–*Lok Prahari*, the petitioner submitted his explanation on 19.1.2024. The Divisional Commissioner–cum–*Lok Prahari* passed an order dated 14.6.2024 making recommendations to the Principal Secretary, Panchayati Raj Department, Government of Bihar for removal of the petitioner from the post of *Mukhiya* under section 18(5) of the Act.

7. The petitioner was served with a copy of the order dated 14.6.2024 of the Divisional Commissioner–cum–*Lok Prahari* asking the petitioner to appear. The petitioner appeared and submitted his response. Thereafter, the Secretary, Panchayati Raj Department, Government of Bihar came out with the order dated 26.2.2026 removing the petitioner from the post of *Mukhiya* under section 18(5) of the Act and with the further order that he will not be eligible to contest any



panchayat elections for the next 5 years.

8. The petitioner by way of this writ application has challenged both the order dated 14.6.2024 of the Divisional Commissioner–cum–*Lok Prahari*, Magadh Division, Gaya as also the order dated 26.2.2026 passed by the Secretary, Panchayati Raj Department, Government of Bihar.

9. It is submitted by learned Senior counsel appearing for the petitioner that in view of the proviso to section 18(5) of the Act, the Divisional Commissioner having been made *Lok Prahari* vide notification dated 23.11.2022 published in the Bihar Gazette (Extraordinary) on 28.11.2022 (Annexure-P/4), the *Mukhiya*/petitioner could be removed only in light of an inquiry and recommendation of the *Lok Prahari* which had not been done in the instant case. The recommendation of the *Lok Prahari* as contained in order dated 14.6.2024 was on the recommendation of the District Magistrate, Nawada.

10. It was further contended by learned Senior counsel for the petitioner that removal of *Mukhiya* in exercise of powers under section 18(5) of the Act may be done by an order of removal passed by the Government. So far as the order of removal dated 26.2.2026 is concerned, the order is passed by the Secretary of the Department which states that it has the approval



of the Government and thus does not satisfy the requirement under the proviso to section 18(5) of the Act.

11. Reliance has been placed by learned Senior counsel on the judgment in the case of *Anil Thakur vs. State of Bihar & Ors.*; 2021 (4) BLJ 663.

12. The application is opposed by learned counsel appearing for the State of Bihar. It is submitted that the petitioner having accepted that on a complaint being filed by a ward member, he deposited the misappropriated money amounting to Rs.8,34,700/- with the Government and the money having remained with him for 45 days for his personal use, the illegal conduct and misappropriation of Government money has been admitted by the petitioner. The allegations were further found proved in the inquiry report submitted on 8.9.2023 by the Senior Deputy Collector, Nawada, the inquiry conducted on the direction of the District Magistrate, Nawada. It was submitted that the Government money under the scheme is withdrawn under the signature of the *Mukhiya* and the instant matter being one of financial misappropriation, the judgment in the case of *Anil Thakur (supra)* will not be of assistance to the petitioner. Further reliance was placed by the respondents on the *judgment dated 25.2.2011 passed in CWJC no.1525 of 2011 (Shyamli*



Devi vs. The State of Bihar & Ors.).

13. Heard learned counsel for the parties and perused the material on record.

14. On perusal of the contents of the writ application and the affidavits filed it transpires that the petitioner was elected as a *Mukhiya* of the gram panchayat on 20.11.2021.

15. A total sum of Rs.8,34,700/- was withdrawn in two instalments on 30.4.2022 and 4.5.2022 and subsequently on a complaint being filed and an objection being raised by the Technical Assistant (Junior Engineer), the total amount was deposited back on 15.6.2022.

16. Pursuant to a complaint being filed, the District Magistrate got an inquiry conducted by the Senior Deputy Collector wherein the charges levelled against the petitioner were found to be proved. A copy of the inquiry report dated 8.9.2023 was provided to the petitioner to which he submitted his reply. The District Magistrate after receiving the show-cause of the petitioner as also examining the contents of the inquiry report found the petitioner to be guilty of misconduct in discharge of his duties as *Mukhiya*.

17. It further transpires that the District Magistrate by his letter dated 18.11.2023 recommended for action against



Mukhiya/petitioner under section 18(5) of the Act.

18. By order dated 14.6.2024, the Divisional Commissioner–cum–*Lok Prahari*, Magadh Division, Gaya in light of the recommendation of the District Magistrate, Nawada recommended to the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna for removal of the *Mukhiya*/petitioner under section 18(5) of the Act.

19. Section 18(5) of the Act is reproduced herein below for ready reference :-

“18. Resignation or Removal of Mukhiya or Up-Mukhiya. –

... ..

(5) Without prejudice to the provisions under this Act, if, in opinion of the Commissioner having territorial jurisdiction over the Gram Panchayat, a Mukhiya or an Up-Mukhiya of Gram Panchayat absents himself without sufficient cause for more than three consecutive meetings or sittings or willfully omits or refuses to perform his duties and functions under this Act, or abuses the power vested in him or is found to be guilty of misconduct in the discharge of his duties [Disobedience of order of an authority established by law or] or becomes physically or mentally incapacitated for performing his duties or is absconding being an accused in a criminal case for more than six months, the [Government]



may, after giving the Mukhiya or Up-Mukhiya a reasonable opportunity for explanation, by order, remove such Mukhiya or Up-Mukhiya, as the case may be, from office.

Provided when a system of Lok Prahari, instituted under sub-section (5) of Section 152 comes into force by a valid notification of the State Government, the Government may only pass order of removal of such Mukhiya or Up-Mukhiya, as the case may be, in the light of inquiry and recommendation of Lok Prahari for the removal.

[The Mukhiya or Up-Mukhiya so removed on the charge of being found guilty of misuse of vested powers or of misconduct in the discharge of his duties shall not be eligible for election to any Panchayat bodies till further five years from the date of such removal. The Mukhiya or Up-Mukhiya so removed on rest of the charges shall not be eligible for re-election as Mukhiya or Up-Mukhiya or Member of Gram Panchayat during the remaining term of office of such Gram Panchayat.]”

20. On perusal of the proviso to section 18(5) of the Act it transpires that firstly the removal of *Mukhiya* is to be done on the inquiry and recommendation of the *Lok Prahari* and secondly the order of removal may only be passed by the State Government.

21. It is not in dispute that by Gazette notification



dated 28.11.2022 (Annexure-P/4) the Divisional Commissioner came to be declared as *Lok Prahari*.

22. So far as the 'inquiry and recommendation' of *Lok Prahari* in the instant case is concerned, from the contents of the order dated 14.6.2024 of the *Lok Prahari* it transpires that the same refers to and relies upon the inquiry report of the Senior Deputy Collector, appointed on a complaint being filed, by the District Magistrate, Nawada and further the recommendation is made by the *Lok Prahari* in light of the recommendation of the District Magistrate, Nawada.

23. It may be observed here that section 18(5) of the Act came to be amended in the year 2011 and a proviso as quoted herein above was introduced which specifically requires that the order of removal of a *Mukhiya* is to be passed in light of inquiry and recommendation of *Lok Prahari*. It is settled law that where a statute requires a thing to be done in a particular manner, it must be done in that manner alone or not at all. Reference may be made to the judgments in the case of *Taylor vs. Taylor*; (1875) 1 Ch. D. 426, *Nazir Ahmad vs. King Emperor*; AIR 1936 PC 253 and *State of Uttar Pradesh vs. Singhara Singh & Ors.*; AIR 1964 SC 358.

24. Thus in view of the above, the judgment relied



upon by learned counsel for the respondents dated 25.2.2011 passed in *CWJC no.1525 of 2011 (Shyamli Devi vs. The State of Bihar & Ors.)* will not be of any assistance to the respondents.

25. So far as instant case is concerned, as seen above, the removal of the *Mukhiya*/petitioner on the basis of the order dated 14.6.2024 of the Divisional Commissioner–cum–*Lok Prahari*, Magadh Division, Gaya not being on the inquiry and recommendation of the *Lok Prahari* but being based on the inquiry conducted by the Senior Deputy Collector and recommendation of the District Magistrate, Nawada, in the opinion of the Court, the order dated 14.6.2024 is not sustainable and fit to be set aside.

26. It may further be observed here that proviso to section 18(5) of the Act further requires that on the inquiry and recommendation of the *Lok Prahari*, the order of removal of the *Mukhiya* may be passed by the Government. Taking into consideration the judgment in the case of *Anil Thakur (supra)*, the decision of the Secretary of the Department stating therein that the same has the approval of the Government does not satisfy the requirement of proviso to section 18(5) of the Act of being an order passed by the Government. In this view also the order dated 26.2.2026 of the Secretary, Panchayati Raj



Department, Government of Bihar removing the petitioner from the post of *Mukhiya* under section 18(5) of the Act and restraining him from contesting any elections of the panchayat bodies for a period of 5 years is not sustainable and fit to be set aside.

27. In view of the above, in the facts and circumstances of the case, the order dated 14.6.2024 (Annexure-P/8) of the Divisional Commissioner–cum–*Lok Prahari*, Magadh Division, Gaya as also the order bearing no.3734 dated 26.2.2026 (Annexure-P/11) of the Secretary, Panchayati Raj Department, Government of Bihar are both set aside.

28. This order will not come in way of the respondent authorities in proceeding against the petitioner in accordance with law.

29. The writ application stands allowed with the above observations.

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	30.06.2026
Uploading Date	08.07.2026
Transmission Date	

