IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18669 of 2016

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1. Anil Kumar Ray and Ors Son of Sri Ram Sagar Ray, Resident of Naya Tola Rahimpur, P.S. Mufassil, District Khagaria.
2. Ajay Kumar Gupta Son of Sri Suresh Prasad Sah, resident of Village Karua Rupani, P.O. and P.S. Chautham, District Khagaria.

3.1. Chanda Devi Wife of Late Amrendra Kumar, Resident of Mohalla - Dan Nagar, Ward No. 3, P.S. and District- Khagaria.

4. Mani Bhushan Singh, Son of Late Ramdeo Singh, resident of Village and P.O. Meghaul, P.S. Khodawandpur, District Khagaria.

... ... Petitioner/s

Versus

1. The State of Bihar and Ors.
2. Collector, Khagaria
3. Nagar Parishad Khagaria through its Chairman, Nagar Parishad, Khagaria.
4. Executive Officer, Nagar Parishad, Khagaria.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Ms. Vaishnavi Singh, Advocate Mr. Ritwik Thakur, Advocate Mr. Mudit Meet, Advocate Mr. Md.Imteyaz Ahmad, Advocate
For the State	:	Ms. Vagisha Pragya Vacaknavi, AC to SC-9
For Nagar Parishad	:	Mr. Krishna Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

10 06-01-2026 Heard learned counsel for the parties concerned.

2. The petitioners were appointed as a Tax Collector by the Nagar Parishad, Khagaria for collection of holding tax in the year 1989. The commission provided at the time of the appointment of the petitioners as Tax Collector was 7.5% of tax collected. Subsequently, the Nagar Parishad, Khagaria took a decision in its empowerment committee meeting dated 07.09.2011 as well as in the general meeting held on 12.12.2015 by which the Parishad decided to pay commission to the petitioners by name @ 10% of the amount collected as a tax.

3. Learned counsel for the petitioners submits that in the appointment letter issued by the then Executive Officer, Nagar Parishad, Khagaria vide letter no. 217 dated 06.04.1989, it has been specifically mentioned that on the basis of payment of commission of 7.5% against the collection of municipal tax, the petitioners have been appointed as Tax Collector in Nagar Parishad. The petitioners worked for about one decade and thereafter a conscious decision was taken by the Nagar Parishad to enhance the commission of the petitioners from 7.5% to 10% on 07.09.2011 and the same was reiterated in the decision of the empowerment committee/its general meeting on 12.12.2015. It has been submitted by the petitioners that after rendering about more than 20 years of service and in the fag end of their life, the commission of the petitioners have been sought to be reduced from 10% to 4% citing directive of the State Government. The percentage of commission according to the petitioners cannot be reduced at the latter half of their life when they have already rendered a continuous satisfactory service to the Nagar Parishad and have diligently collected the tax.

4. On the other hand, learned counsel for the Nagar

Parishad, Khagaria and the State jointly argued that in the year 2008, the State Government issued a directive to all municipal bodies to pay commission @ 4% of the tax collected. Referring to Rule 10(4)(a) of the Empowered Standing Committee Conduct of Business Rules 2010, learned counsel submits that the Empowered Standing Committee has no authority to pass a resolution or take a decision in any matter/issue which is against the rules, laws and directives of the State Government.

5. On the other hand, Mr. Ajay Kumar Thakur, learned counsel appearing for the petitioners in reply submits that the directive of the State Government is prospective in nature and that cannot be applied retrospectively against the petitioners as the petitioners have been working as tax collectors on a particular rate of commission since 1989 and out of four, two of them have retired, one has died and one is still working. He further submits that the Nagar Parishad, Khagaria has recently given the work of tax collection and other works to an agency for realization of tax of property at the door step of the citizen. Percentage of commission has been fixed and is being paid to the agency @ 9.97%. This decision/agreement between the agency and the Nagar Parishad has been taken on 18.01.2025.

6. I have learned counsel for the parties and have gone through the materials on record.

7. Undisputedly, the petitioners have been working for the last about 35 years. It is not disputed that the petitioners were being paid 7.5% of the collected tax as commission. There is only four petitioners one of them has already died and one perhaps has retired who have been claiming the commission @ 10% as per the decision of the Empowerment Committee which was taken in the year 2011 and reiterated in 2015. In the fag end of their life and on the basis of subsequent letter/directive of State Government of the year 2008, the rate of commission paid to the petitioners, cannot be reduced to their disadvantage particularly when the directive of the State Government to pay 4% of the commission to the Tax Collector was not made retrospective in nature.

8. Accordingly, in the opinion of this Court, the petitioners are entitled to be paid commission @ 10% which is a minor increase of 2.5% of the commission which they were getting since their appointment as Tax Collector in 1989. In the result, this writ application is allowed. The respondent, Nagar Parishad is directed to pay commission to the petitioners and or his/their legal heirs @ 10% of the tax collected with effect from 07.09.2011.

9. Since the specific decision for the petitioners only was taken by empowerment committee in 2015, this direction will confine to the petitioners only and shall not apply to any other tax collectors.

10. Accordingly, this writ application stands disposed of with the aforesaid direction and observation.

(Anil Kumar Sinha, J)

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