

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13280 of 2025

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Abha Kumari Wife of Anmol kumar at present Posted as Assistant Gaya
Nagar Nigam, R/o-village-mokama, p.s- Mokama, Dist-patna, P.S. - Kotwali,
District -Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Urban Development and Housing
Department, Bihar, Patna.
2. The District Magistrate, Gaya, P.S. and District Gaya.
3. The Municipal Commissioner, Gaya Municipal Corporation, P.S. and
District - Gaya.
4. The Executive Officer, Gaya Municipal Corporation P.S. and District Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Dr. Anjani Pd. Singh, Advocate
For the Respondent/s : Mr. Shiv Kumar, AC to GA- 3

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 23-06-2026

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Gaya
Municipal Corporation.

2. Learned counsel for the petitioner, after some
arguments, submits that the final order of punishment, though
minor in nature, has been challenged before this Hon'ble Court.

3. Learned counsel for the Gaya Municipal
Corporation raised a preliminary objection and submits that the
service of the petitioner, who is an employee of the Gaya
Municipal Corporation, is governed by the Municipal Officers



and Servants (Appointments, Duties, Discipline and Appeal) Rules, wherein a provision for appeal is available.

4. After hearing the argument, it transpires to this Court that Bihar Municipal Act, 2007 (Bihar Act 11, 2007) (hereinafter referred to as the 'Bihar Act, 2007') has been notified in the Bihar Gazette (Extra Ordinary) on 05.04.2007. It is clear that Organizational Structure of Municipality has been described in Chapter V of Sections 36 to 44 of the Bihar Act, 2007. Subsequently, amendment has been made, which was notified on 31.03.2021, in Section 36 of Bihar Act, 2007 and thereafter Section 36 shall be read as follows:

“36. Officers of Municipality.- (1) Subject to the provisions of Section 41 and need for ensuring maximum possible economy in municipal administration, the Municipality shall have the following posts of Officers namely-

(a) in the case of Municipal Corporation,-

(i) the Municipal Commissioner, an Officer of Indian Administrative Service or Bihar Administrative Service [or non- Government officers, Managers, Administrators or Engineers who have experience/specialization in urban sector management- Added by Bihar Act 2 of 2012, dated 23.1.2012],

(ii) the Controller of Municipal



Finances and Accounts, a senior Audit Officer/Accounts Officer from Accountant General Office or senior member of Bihar Finance Service [or a member of Bihar Account Service- Added, by Bihar Act 7 of 2011, dated 27.5.2011], [or a Chartered Accountant under the Chartered Accountants Act, 1949, or a Cost and Management Accountant under the Cost and Works Accountants Act, 1959.-Added by Bihar Act 2 of 2012, dated 23.1.2012]

(iii) the Municipal Internal Auditor,

(iv) the Chief Municipal Engineer,

(v) the Municipal Architect and Town Planner,

(vi) the Chief Municipal Health Officer,

(vii) the Municipal Law Officer,

(viii) the Municipal Secretary,

(ix) three Additional Municipal Commissioners, preferably in the rank of A.D.M. but not below the rank of S.D.M. of Bihar Administrative Service, and

(x) Such number of Joint Municipal Commissioners or Deputy Municipal Commissioners or Deputy Chief Municipal Engineers as the Empowered Standing Committee may, from time to time, determine, and

(b) in the case of a Municipal Council or Nagar Panchayat,-

(i) the Municipal Executive Officer,



*(ii) the Municipal Finance Officer,
(iii) the Municipal Engineer,
(iv) the Municipal Health Officer,
(v) the Municipal Secretary, and
(vi) such other officers as may be
designated by the State Government
in this behalf:*

*(vii) The Municipal Internal Auditor-
Ins. by ibid.*

*Provided that the State Government
may reduce the number of posts of the officers as
aforesaid:*

*Provided further that the State
Government may re-designate any of the posts of
the officers as aforesaid.*

*[Provided further that the Government
may appoint a Non-Government person who has
experience/specialization in urban sector
management and administration who can be a
qualified Manager/Administrator/Engineer on the
post of Municipal Executive Officer even in
Municipal Council and Nagar Panchayat.- Inserted
by Bihar Act 2 of 2012, dated 23.01.2012.]*

*[Provided also that the Government
may by order to the Municipalities subtract, add,
change the number and structure of posts, abolish
a post or posts, determine and abolish cadres,
create new cadres, restructure their administrative
structure and establishment or can give any other
direction in this regard which shall be binding on*



the Urban Local Bodies.-Inserted by Bihar Act 2 of 2012, dated 23.01.2012.]

(2). Amendment of Section 36 of Bihar Act 11, 2007.- (i) *Sub-section (2) of Section 36 of the Bihar Municipal Act, 2007 shall be substituted by following:-*

"36 (2) Appointments of officers mentioned in sub-section (1) may be made either on a regular basis or on a contract basis for such term as the State Government may be prescribe."

(ii) *Sub-section (3) of Section 36 of the Bihar Municipal Act, 2007 shall be substituted by following:-*

"36 (3) Subject to the provisions of sub-section (2) officers mentioned in sub-section (1) and other employees of the Municipality, the method of appointment, required qualification, conduct and discipline, control and other conditions of service shall be such as may be prescribed."

(iii) *Sub-sections (4), (5), (6), (7), (8) and (9) of Section 36 of the Bihar Act, 2007 shall be deleted by the Bihar Municipal (Amendment) Act, 2021 published in Bihar Gazette (Ex. Ord.) No.231, dated 31.03.2021.*



5. Section 488 of Bihar Municipal Act, 2007 is the repeal and savings clause which states as follows:

“488. Repeal and Savings.-(1) With effect from the date of coming into force of this Act, the Bihar Municipal Act, 1922, Patna Municipal Corporation Act 1951, Bihar Municipal Corporation Act, 1978, Bihar Regional Development Authority Act, 1981, Bihar Town Planning & Improvement Trust Act, 1951, Bihar Restrictions of Uses of Land Act, 1948, Bihar Municipal Ordinance, 2007 shall stand repealed.

(2) Gram Panchayats, Panchayat Samities and Zila Parishads, constituted under the Bihar Panchyat Raj Act 2006, whose jurisdiction extend over the Municipal Area shall not exercise powers and functions as have been entrusted to the Municipality under this Act.

(3) The Regional Development Authorities set up under the Bihar Regional Development Authority Act, 1981, the Improvement Trust or Town Planning Authority set up under the Bihar Town Planning and Improvement Trust, Act, 1951, Controlling Authority Constituted under the Bihar Restriction of Uses of Land Act 1948, shall cease to exist with effect from the date of this Act comes into force.

(4) Notwithstanding the provisions of sub-section (1) : and sub-section (3)(a) Subject to the scrutiny of the requirements of the Municipality



assessed by an officer or officers appointed by the State Government, every such officer or other employee serving with various authorities, organisations set up under the Acts listed in sub-section (1) and (3) of this Section, immediately before the date of the commencement of this Act and on and from such date shall be deemed to have been transferred to and become an officer or other employee of the Municipality-with such designation as the Municipality may determine and may hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as he would have held if the Acts were not repealed, and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Municipality:

Provided that any service rendered by such an officer or other regular employees before the repeal of the Act shall be deemed to be service rendered under the Municipality:

Provided further that the officer or officers appointed by the State Government shall screen and verify service record of each officer and employee and only such officers and employees shall be absorbed in the municipality which have been appointed against duly sanctioned posts in accordance with law by a Competent Authority.

(b) Anything done or any action taken (including any appointment, Rule, bye-laws, Regulation made, granted or issued under various



Acts listed in sub-section (1) and (3) of this Section shall, continue to be in force and be deemed to have been done or taken under the provisions of this Act unless it is superceded modified/alterd by any thing done or any action taken under this Act.

(c) All debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the various authorities organisations set up under the Acts listed in sub-section 3 of this Section shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Municipality.

(d) All properties movable and immovable and all rights, title, and interest in any property vested in the authorities organisations (set up under the Acts) listed in sub-section (1) and (3) of this Section shall vest in the Municipality and all properties in possession of such organisations shall be deemed to be due to the Municipality.

(e) All suits, prosecution, and other legal proceedings instituted or which might have been instituted by, for, or against the said authorities organisation listed in sub-section (1) and (3) of this Section may be continued or instituted by, for or against the Municipality.

(f) All sums charged on any property under various Acts listed in sub section (1) of this Section or the Rules or Regulations framed there under shall continue to be charged on that property and the charge shall enforceable by the



Municipality.

(g) From the date Act comes into existence, Municipality will have same right as the said various authorities, organisations had in lands within the area notified under sub-section (1) and (3) of the Act, which were previously held by the said various authorities, organizations on lease from the State Government for a certain period or the possession of which has been delivered to the aforesaid authority/organisations.

(h) The Municipality shall continue to enjoy the powers to realise the various sources of income in terms of levies, fees, cess, etc.; otherwise empowered to be realised by said various authorities organisation under their respective Acts and Rules and Regulations framed thereunder specified under sub-section (3) of this Section of the Ac if the said authorities were still functioning under their respective Statutes until the same are amended by the Municipality from time to time.

(5) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the Acts/Ordinance referred in sub-section (1) shall be deemed to have been done or taken in exercise of the powers conferred under this Act, as if this Act were in force on the day on which such things or a was done or taken.”

6. By Bihar Municipal Act, 2007 the Bihar



Municipal Act, 1922 and others as mentioned in Section 488(1) of the Act has been repealed but according to Section 488(4)(b) of Bihar Municipal Act, 2007, anything done or any action taken including any appointment, Rule, bye-laws, regulation made, granted or issued under various acts listed in 488(1) and 488(3) shall continue to be in force and be deemed to have been done or taken under the provisions of this Act unless it is proceeded modified/alterd by anything done or any action taken under this Act. Under Bihar and Orissa Municipal Act, 1922, Model Rules for appointments, duties, discipline and appeal for Officers and Servants of Municipality has been framed by virtue of Section 42 (1)(a) of the Bihar and Orissa Municipal Act, 1922 (Act No.7 of 1922) the name of the said Rule is “Municipal Officers and Servants (Appointments, Duties, Discipline and Appeal) Rules is still in existence by virtue of provision under Section 488(4)(b) of the Bihar Municipal Act, 2007.

7. The petitioner seeks permission to withdraw the present writ petition with liberty to avail the remedy of appeal under the said rule.

8. In the light of the discussions made above and request made by learned Counsel for the petitioner, this writ petition stands disposed off granting liberty to the petitioner to



avail the remedy under the Municipal Officers and Servants (Appointments, Duties, Discipline and Appeal) Rules already continued in force by virtue of Section 488(4)(b) of Bihar Municipal Act, 2007.

9. It is made clear that if petitioner files appeal within 90 days from today before the Appellate Authority concerned, the Appellate Authority shall entertain the appeal. Delay, if any, in filing the appeal is hereby directed to be condoned.

10. Accordingly, the present writ petition stands dismissed as withdrawn with the aforesaid liberty.

(Dr. Anshuman, J)

Mkr./Rakesh/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01/07/2026
Transmission Date	NA

