
(2013) 04 PAT CK 0099
In the Patna High Court
Case No : CWJC No. 4827 of 2012

Jai Kishore Prasad Mandal

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-04-2013

Acts Referred:

Citation : (2014) 2 PLJR 124

Hon'ble Judges : S.K. Sinha, J

Bench : Single Bench

Judgement

S.K. Sinha, J.—Heard learned counsel for the petitioner and Standing Counsel No. 20 for the State. The petitioner is aggrieved by the communication as contained in letter No. 624 dated 30th of January, 2012 issued by the Special Work Officer, Panchayati Raj Department, Government of Bihar, Patna, enclosing a copy of the enquiry report of the District Magistrate with respect to the various alleged irregularities committed by him. The petitioner, the Mukhiya of the concerned Gram Panchayat was asked to submit his explanation to the Principal Secretary, Panchayati Raj, Government of Bihar, Patna, as to why he should not be removed from the post of Mukhiya, in terms of the provisions contained in sub-section (5) of Section 18 of the Bihar Panchayati Raj Act, 2006.

2. It is submitted on behalf of the petitioner that the aforesaid explanation/notice was sought by the Officer on Special Duty of the Department and not by the State Government and that too, without due application of mind and as such, the aforesaid notice dated 30th of January, 2012, as contained in Annexure-7 suffers from patent illegality, deserves to be quashed.

3. Learned counsel appearing for the State, on the other hand, submits that by the said communication, enclosing the enquiry report with respect to the alleged serious irregularities committed by the petitioner warranting an action under the aforesaid provisions of the Act, the petitioner was asked to submit his explanation to the Principal Secretary, Panchayati Raj Department, Government of Bihar. However, no final order under sub-section 5 of Section 18 of the

aforesaid Act has been passed by the State Government till date. The petitioner has not filed any reply/explanation.

4. Considering the submissions of the parties, it would appear that under the provision of sub-section (5) of Section 18 of the Act, the State Government may pass an order for removal after providing an opportunity to the incumbent of the post with respect to the alleged irregularity/illegality. In the instant case, by the aforesaid letter dated 30th of January, 2012 (Annexure-5), the petitioner was communicated alongwith the copy of the enquiry report of the District Magistrate, to submit his explanation to the Principal Secretary, Panchayati Raj, Government of Bihar, Patna. The paramount consideration under the aforesaid provision of law, is that the State Government is to pass an order after providing an opportunity to the incumbent to submit his explanation. In my opinion, the petitioner has been provided such an opportunity to submit his reply. As submitted on behalf of the learned counsel for the State that no final order has been passed, it will be open for the petitioner to submit his explanation/reply pursuant to Annexure-7 within a period of four weeks alongwith certified copy of the present order before the Principal Secretary, Panchayati Raj, Government of Bihar, Patna.

5. I do not find any valid reason to interfere with the letter to submit his explanation as per Annexure-7. The writ application stands disposed of with the above observations/directions.