

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10527 of 2024

Rehana Parveen Wife of Md Khalilullah Mansury Resident of Mita Singh Ke Tola, Ramnagar Karari Kachhar, Athmalgola, P.S. Athmalgola, District-Patna, Bihar- 803211

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Additional Chief Secretary, Panchayat Raj Department, Patna, Bihar.
3. The Chief Election Commissioner, Patna, Bihar.
4. The Commissioner, Patna Division, Patna.
5. The Director Panchayat Raj Department, Patna, Bihar.
6. The District Magistrate, Patna, Bihar.
7. THE Deputy Development Commissioner-Cum-Chief Executive Officer, Zila Parishad Advisory Committee, Patna.
8. Anju kumari, (at Present the Adhyaksha), W/o Kumar Rajanish, R/o Village-Lahladpur, P.O. Mohanpur, P.S. Gaurichak, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pushkar Narayan Shahi, Sr. Advocate Mr. Ashutosh Kumar Upadhyaya, Advocate
For the State	:	Mr. Anirban Kundu, SC-24
For Zila Parishad	:	Mr. Sunil Kumar Thakur, Advocate
For respondent no.8	:	Mr. Bindhyachal Singh, Sr. Advocate Mr. Abhay Kumar, Advocate
For SEC	:	Mr. Ravi Ranjan, Advocate Mr. Girish Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

CAV JUDGMENT

Date : 23-09-2024

Heard Mr. Pushkar Narayan Shahi, learned Senior Counsel appearing on behalf of the petitioner, Mr. Bindhyachal Singh, learned Senior Counsel representing the respondent no.8, Mr. Anirban Kundu, learned S.C.-24, Mr. Ravi Ranjan, learned counsel for the State Election Commission and Mr.



Sunil Kumar Thakur, learned counsel for the Zila Parishad,
Patna.

(A) PRAYER:

2. The petitioner has prayed for grant of the
following reliefs:

*(i) to issue an appropriate writ,
order, direction in the nature of
certiorari for quashing of the memo
no. 2261 dated 26/06/2024 issued
under the signature of the District
Magistrate, Patna;*

*(ii) to issue an appropriate writ,
order, direction in the nature of
mandamus commanding the
respondents to take action in
accordance with law and in light of
the government notification bearing
memo no. 4695 dated 19/08/2021
issued under the signature of the
Additional Chief Secretary of
Panchayati Raj, Bihar. Patna;*

(iii) to issue an appropriate writ,



order, direction in the nature of mandamus commanding the respondent to take action against the respondent no. 08 as per the section 70 (5) of the Bihar Panchayat Raj Act.2006;

(iv) to issue an appropriate writ, order, direction in the nature of prohibition restraining the respondent No. 08 from taking any action with regard to the financial matters;

(v) to any other relief for which the petitioner appears to be found entitled by the Hon'ble Court.

(B) PETITIONERS' CASE:-

3. The case of the petitioner as presented by the learned Senior Counsel, Mr. Shahi is that she is an elected member of the Zila Parishad, Patna while the respondent no.8 is holding the post of the Chairperson of the said Zila Parishad. He submits that while declaring the respondent no. 08 as the elected Chairperson, an important fact has been ignored by the respondents vide the government notification/ **memo no. 4695**



dated 19/08/2021, the respondent no. 08 was removed from the post of the Chairperson, 'Advisory Community', Zila Parishad, Patna for the rest of her tenure issued under the signature of the Additional Chief Secretary, Panchayati Raj Department Bihar, Patna (henceforth for short 'the Department') which makes a person ineligible to hold the post of the Member of Zila Parishad for a period of five years from the date of removal from the office as per the provision contained in **Section 70(5) of the Bihar Panchayat Raj Act, 2006** (henceforth for short '**the Act**')

4. Learned Senior Counsel further submits that earlier, the respondent no.8 had preferred **C.W.J.C No. 15666 of 2021** challenging the decision of the Deputy Development Commissioner, Patna to convene the meeting of the Zila Parishad which was dismissed by the Division Bench vide an order dated **18/04/2022** holding that she was removed from the office on the ground of misconduct which was not disclosed in the writ petition while challenging the decision.

5. It has further been submitted that in the light of the memo no 2625 dated 19/06/2024 and memo no. 2443 dated 03/06/2024 issued by the State Election Commission, Bihar, Patna, the election was conducted on 26/06/2024 and the very



same day, as the newly elected Chairperson has to take oath, the process was completed vide **memo no 2261 dated 26/06/2024** issued by the respondent no.6, **the District Magistrate, Patna**

6. Mr. Shahi further submits that the respondents while following the aforesaid process ignored that the removal of the respondent No. 08 from the office will be governed by **section 70(5)** of the '**the Act**' which debars from contesting any election for the next five years from the date of her removal which in this case is 19.08.2021.

7. The contention is that the respondents acted in an arbitrary manner and thus violated the provisions of 'the Act' as also the various orders of the Court wherein it has been held that the Chairman or Vice Chairman so removed on the charge of being found guilty of misconduct shall not be eligible for election to any Panchayat body for the next five years.

8. Learned Senior Counsel reiterates that the respondent no.8 had already been removed in the year 2021 on the ground of misconduct and thus she was not eligible to hold the office of the Chairperson till the completion of five years.

9. In support of his contention, learned Senior Counsel has relied upon a case of **Satyendra Yadav vs. the**



State of Bihar through the District Magistrate, Jehanabad
and others reported in **2015 (2) PLJR 676.**

10. In **Satyendra Yadav** (supra) the learned
Single Judge of Patna High Court in paragraphs 13 to 15 held
as follows:

13. The arguments of Mr. Giriyagye though attractive but would have merited consideration only if the amendment would have been introduced after the expiry of the term of Zila Parishad which expired in 2011. It is perhaps then that he could have argued that the order of removal and future disqualification stands exhausted on the completion of the term of the Zila Parishad. But the fact is that the amendment was enforced on 4.2.2008; i.e. during the tenure of the Zila Parishad and thus the original provision which merely disentitled an Adhyaksha from contesting any re-election for rest of the period was replaced by the amended provisions which disentitled him from contesting any



election to any Panchayat bodies for next five years from the date of removal on 9.1.2008. In my opinion the amendment though was introduced on 4.2.2008 i.e. after the removal of the petitioner on 9.1.2008 but was enforced during the life of the Zila Parishad which was yet to expire in 2011 and which provided for a revised criteria as to the eligibility of an Adhyaksha/Up-Adhyaksha to contest an election which was based on his past conduct and whereby the period of disability/ineligibility in such cases was enhanced to 5 years but nonetheless it was yet to be applied only in cases of past misconduct or abuse of office by the elected representative.

14. *It is not a case where the penal provision based on past conduct has been freshly introduced rather while maintaining the disqualification for contesting an election for past misconduct*



merely the period has been extended to five years.

15. The petitioner has thus sailed into the parameters of the amended provisions and since the amended provisions disentitles Adhyaksha/Up-Adhyaksha who have been removed under Section 70(5) of the Act on grounds of misconduct or abuse of power from contesting any election in the next five years from the date of removal hence he was not entitled to contest the election in the year 2011.

11. Learned Senior Counsel concludes by submitting that since the respondent no.8 was removed on 19.08.2021, she cannot hold office till 18.08.2026 and her continuation on the post is an abuse of the process of law. As such immediate interference is needed in the matter.

(C) CASE OF STATE RESPONDENT NO.8.

12. Mr. Bindhyachal Singh, learned Senior Counsel representing the respondent no.8 submits that the tenure of Zila Parishad is only for a period of five years and in the present case, as it came to an end in the year 2021, the last election having been



held in the year 2016, the Zila Parishad, Patna as such was dissolved. However, due to Covid-19 effect, the election of the Panchayat Raj institution was/were withheld and in that background, a **notification no. 2757** dated **9.6.2021** was issued constituting "**Advisory Committee**" under the provision of 14 (5), 39(5), 66(5), 92 (4) of 'the Act'. The respondent no.8 by virtue of being Chairperson of Zila Parishad, Patna (till it was dissolved) was made the Chairperson of the said Advisory Committee.

13. Thus, the answering respondent no. 8 was no longer holding the post of Chairperson of the Zila Parishad, Patna after the five years period came to an end in the year 2021. As such, thereafter, once her tenure came to an end and as she was serving as the Chairperson of the Advisory Committee, which was an interim measure, section 70 (5) of 'the Act' will not be applicable in her case. He reiterates that on the relevant date, she was serving as the Chairperson of 'Advisory Committee' of Zila Parishad, Patna by virtue of notification no. 2751 dated 09.06.2021.

14. The respondent no.8 was subsequently removed as Chairperson of the 'Advisory Committee' vide memo no. 4695 dated 19.08.2021 by the Additional Chief Secretary of 'the Department' for the rest of the tenure.

15. It is the further case of the respondent no.8 that



the writ petitioner has never challenged the aforesaid order dated 19.08.2021 and as such, it became final.

16. Learned Senior Counsel submits that she indeed challenged her removal dated 19.08.2021 but in a different writ application bearing **CWJC no. 14924/2021** which was disposed of on 31.03.2022 as infructuous. The case cited by the learned Senior Counsel for the petitioner was against the decision of the D.D.C., Patna and not against her removal.

17. Learned Senior Counsel reiterates that the content of the order is/was very clear – the respondent no.8 was removed from the post of the Chairman of the ‘Advisory Committee’, Zila Parishad, Patna for the rest of the tenure by the respondent Additional Chief Secretary, Department of Panchayat Raj, Bihar at Patna on 19.8.2021 vide notification no. 2757 dated 09.06.2021. She was not removed from the post of the Chairman, Zila Parishad and as such section 70(5) of ‘the Act’ will not come into picture warranting her removal.

18. It is his submission that after the ‘No Confidence Motion’ was passed against the then Chairman, Zila Parishad, Patna, the seat became vacant and on the direction of the State Election Commission, Bihar, the election took place on 26.06.2024 in which the petitioner and respondent no.8



contested. The 39 members of the Zila Parishad, Patna present and participated in the election in which, while the respondent no.8 got 33 votes, the petitioner was able to get only 5 votes whereafter the respondent no.8 was declared elected as Chairperson of the Zila Parishad, Patna. In retaliation, the petitioner has preferred the present petition.

19. Learned Senior Counsel submits that if the petitioner is/was aggrieved by the election of the respondent no. 8, she could have very well filed an election petition before the competent Civil Court under section 137 of 'the Act'. Having failed to do so, she cannot be allowed to misuse Article 226 of the Constitution of India.

20. In support of his contention, learned Senior Counsel for the respondent no.8 cited the case of **Hon'ble Supreme Court** in the case of **Ravi Yashwant Bhoir vs. District Collector, Raigad and others** reported in **(2012) 4 SCC 407** wherein misconduct has been defined and it has also been held that failure to call general body meeting inadvertently and/or in ignorance of statutory requirement without any corresponding loss to Municipal Council, it would not amount to misconduct. Misconduct and disgraceful misconduct were defined in **paragraphs 11, 13, 16, 18 and 19**



and read as follows:

11. "Misconduct" has been defined in *Black's Law Dictionary, 6th Edn* as:

"A transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior, wilful in character, improper or wrong behavior, its synonyms are misdemeanor, misdeed, misbehavior, delinquency, impropriety, mismanagement offence, but not negligence or carelessness."

"Misconduct in office" has been defined as:

"Any unlawful behavior by a public officer in relation to the duties of his office, wilful in character. Term embraces acts which the office-holder had no right to perform, acts performed improperly, and failure to act in the face of an affirmative duty to act."



13. *Mere error of judgment resulting in doing of negligent act does not amount to misconduct. However, in exceptional circumstances, not working diligently may be a misconduct. An action which is detrimental to the prestige of the institution may also amount to misconduct. Acting beyond authority may be a misconduct. When the office-bearer is expected to act with absolute integrity and honesty in handling the work, any misappropriation, even temporary, of the funds, etc. constitutes a serious misconduct, inviting severe punishment. (Vide Disciplinary Authority-cum-Regl. Manager v. Nikunja Bihari Patnaik, Govt. of T.N. v. K.N. Ramamurthy, Inspector Prem Chand v. Govt. of NCT of Delhi and SBI v.SN Goyal).*

16. *Conclusions about the absence or*



lack of personal qualities incumbent do not amount to misconduct holding the person concerned for punishment. (See Union of India v. J. Ahmed)

18. *The expression "misconduct" has to be understood as a transgress of some established and definite rule of action, a forbidden act, unlawful behavior, wilful in character. It may be synonymous as misdemeanour in propriety and mismanagement. In a particular case, negligence or carelessness may also be a misconduct for example, when a watchman leaves his duty and goes to watch cinema, though there may be no theft or loss to the institution but leaving the place of duty itself amounts to misconduct. It may be more serious in case of disciplinary forces.*

19. *Further, the expression "misconduct" has to be construed and*



understood in reference to the subject-matter and context wherein the term occurs taking into consideration the scope and object of the statute which is being construed. Misconduct is to be measured in the terms of the nature of misconduct and it should be viewed with the consequences of misconduct as to whether it has been detrimental to the public interest.

21. Further, not calling a meeting did not warrant removal has/have also been explained in **paragraphs 61 to 68** and read as follows:

61. In such a fact situation, the complaint filed by Respondent 5 could at the pressed into service as a material exhibit in order to collect the evidence to find out the truth. In the instant case, as all the charges proved against the appellant have been dealt with exclusively on the basis of documentary evidence, there is



nothing on record by which the complainant could show that the general body meeting was not called, as statutorily required, by the appellant intentionally.

62. Not calling the meeting of the general body of the House may be merely a technical misconduct committed inadvertently in ignorance of statutory requirements. It is nobody's case that the appellant had done it intentionally/purposely in order to avoid some unpleasant resolution/demand of the Council. No finding of fact has been recorded either by the competent authority or by the High Court that some urgent/important work could not be carried out for want of general body meeting of the Council.

63. Merely not to conduct oneself according to the procedure prescribed or omission to conduct a



meeting without any corresponding loss to the corporate body, would not be an automatic misconduct by inference, unless some positive intentional misconduct is shown. It was an admitted fact that the meeting had not been called. However, in the absence of any imputation of motive, not calling the meeting by the appellant could not in itself, be enough to prove the charge.

64. *Section 81 of the 1965 Act requires that for the disposal of the general business, the President should call the meeting of the Council within a period of two months from the date on which the last preceding ordinary meeting was held. The statutory provisions further provided that in case the President fails to call the ordinary meeting within the said stipulated period, the Chief Officer*



may report such failure to the Collector and the Collector can call the ordinary meeting of the Council following the procedure prescribed therein. The President can also call the meeting on the request of the members not less than one-fourth of the total number of Councils.

65. Therefore, the cogent reading of all the provisions makes it clear that in case the President fails to call the meeting, there are other modes of calling the meeting and in such an eventuality where reasonable explanation has been furnished by the appellant to the show-cause notice on this count, the competent authority could not have passed such a harsh order.

66. So far as the other charges regarding laying down the pipelines at a much higher rate are concerned,



it has been a positive case of the appellant that as the earlier contractor had abandoned the work in between and there was a scarcity of water in the city, the Chief Officer, the Junior Engineer considered the technical aspect and then recommendations were forwarded under the signatures of the appellant, the Chief Officer and Junior Engineer to the Council, which ultimately passed the resolution accepting the said tenders. In such a fact situation, it was a collective consensus decision of the House after due deliberations. Admittedly, it was not even the ratification of contract awarded by the appellant himself. Thus, even by any stretch of imagination it cannot be held to be an individual decision of the appellant and the competent authority failed to appreciate that the



tenders were accepted by the Council itself and not by the appellant alone. Therefore, he could not be held responsible for acceptance of tenders.

67. We have gone through the counter-affidavit filed by Respondent 5, complainant before this Court and he has not stated anywhere that the tenders were not accepted by the Council, rather allegations have been made that the tenders had been accepted at a higher rate so that the contractor could get the financial gain. Similarly, technical issue has been raised for not calling the meeting, committing serious irregularities sufficiently warranting disqualification of the appellant on his omission to call the meeting, but it is not his case that he did it intentionally. The counter-affidavit filed by the State does not reveal



anything in relation to the issues involved herein and it appears that the deponent/officer has merely completed the formalities without any purpose.

68.To conclude, we are of the considered opinion and that too after appreciation of the entire evidence on record that the first charge proved against the appellant for not calling the meeting of Council, did not warrant the order of removal and the explanation furnished by the appellant could have been accepted. Other charges could not be proved against the appellant in view of the fact that the tenders at a higher rate were accepted by the Council itself and the appellant could not be held exclusively responsible for it.

22. Learned Senior Counsel concludes by submitting that having lost the post to the respondent no.8, in



desperation, the present petition has been preferred by the petitioner which is fit to be dismissed.

(D) STATE'S RESPONSE:

23. The stand of the State respondent (the respondent no.6, the District Magistrate, Patna) is/are that the order dated 19.08.2021 is self speaking, the respondent no.8 was removed from the post of the Chairperson, Advisory Committee' for the rest of the tenure. As such, her election to the post of Chairperson of Zila Parishad, Patna is perfectly valid.

24. Learned State Counsel submits that the said order dated 19.08.2021 by which her removal for the rest of the period has been inscribed, in that background, the respondent no.8 was rightly allowed to contest the election and after the voting, as she got the majority of votes was declared elected as the Chairperson. The writ petition as such deserves dismissal.

(E) FINDINGS:

25. Having gone through the facts of the case and the materials on record as also after hearing the learned Senior Counsels for the petitioner and the respondent no.8 and learned counsel appearing for the other parties, this Court will first have to give a look to **the order/memo no. 4695** dated **19.08.2021** issued under the signature of the respondent **the Additional**



Chief Secretary, Panchayati Raj Department, Bihar, Patna

and read as follows:

9. संचिका में उपलब्ध दस्तावेजों की समीक्षा एवं अनुशीलन से यह स्पष्ट होता है कि श्रीमती अंजु देवी, अध्यक्ष, परामर्शी समिति जिला परिषद्, पटना द्वारा अपनी कार्यावधि में बिहार पंचायत राज अधिनियम, 2006 में प्रावधानों के अनुसार जिला परिषद् की बैठकें नहीं बुलायी गयीं और परामर्शी समिति जिला परिषद् का अध्यक्ष बनने के बाद भी उनका रवैया पूर्ववत् बना हुआ है। स्पष्टतः श्रीमती अंजु देवी, अध्यक्ष परामर्शी समिति का यह कृत्य अपने कर्तव्यों का निर्वहन नहीं करने तथा जानबूझकर करने से इंकार करने का द्योतक है। अध्यक्ष के मनमाने रवैये के कारण परामर्शी समिति जिला परिषद् पटना पंगु बनकर रह गयी है। अध्यक्ष जिला परिषद् के मुख्य कार्यपालक पदाधिकारी के परामर्श को किनारे कर बैठक स्थगित करने के नये-नये बहाने ढूंढ ले रही हैं। परामर्शी समिति के अध्यक्ष को उन सभी कृत्यों को करने का दायित्व दिया गया है जो बिहार पंचायत राज अधिनियम 2006 की संगत धाराओं के अधीन जिला परिषद् अध्यक्ष के लिए अनुमान्य हैं। अधिनियम की धारा 74 के प्रावधानों के अनुसार जिला परिषद् को जिलावासियों कल्याणार्थ स्वास्थ्य, सुरक्षा, शिक्षा, सुख-सुविधा या सामाजिक आर्थिक अथवा सांस्कृतिक अभिवृद्धि हेतु कार्य या उपायों को कार्यान्वित करने का उपबंध कर सकने की शक्ति प्राप्त है। जिला परिषद् के कार्यक्रमों को मूर्त रूप देने की जवाबदेही अध्यक्ष एवं मुख्य कार्यपालक पदाधिकारी की होती है। जिला परिषद् की बैठक का आयोजन और अध्यक्षता तथा उसके संचालन का पूर्ण दायित्व जिला परिषद् अध्यक्ष का होता है। श्रीमती अंजु देवी, अध्यक्ष, परामर्शी समिति जिला परिषद्, पटना इस सभी बिंदुओं पर सकारात्मक कार्रवाई करने एवं निर्णय लेने में विफल रहीं हैं। सरकार की दृष्टि में इनके पद पर बने रहने से परामर्शी समिति जिला परिषद्, पटना अपने वैधानिक दायित्वों का निर्वहन नहीं कर पा रही है।

अतः विभागीय अधिसूचना संख्या-2757 दिनांक-09.6.

2021 के प्रावधानों के अधीन श्रीमती अंजु देवी, अध्यक्ष, परामर्शी समिति जिला परिषद्, पटना को आदेश निर्गत किए जाने की तिथि से परामर्शी



समिति जिला परिषद्, पटना की शेष कार्यावधि के लिए अध्यक्ष के पद से हटाया जाता है।

10. प्रस्ताव पर सरकार का अनुमोदन प्राप्त है।

उपर्युक्त प्रेक्षण के साथ वाद की कार्रवाई समाप्त की जाती है। इसकी जानकारी सभी संबंधित को दी जाये।

लेखापित एवं संशोधित

ह0/-
19/8/21
(अमृत लाल मीणा)
अपर मुख्य सचिव
पंचायती राज विभाग
बिहार, पटना

ह0/-
19/8/21
(अमृत लाल मीणा)
अपर मुख्य सचिव
पंचायती राज विभाग
बिहार, पटना

ज्ञापांक- 3प/विविध-17-21/2020/4695/पं0रा0, पटना दिनांक-
19/08/2021

प्रतिलिपि- श्रीमती अंजु देवी, अध्यक्ष, परामर्शी समिति जिला परिषद्, पटना को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

ह0/-
19/8/21
(डॉ0 रणजीत कुमार सिंह)
निदेशक

ज्ञापांक- 3प/विविध-17-21/2020/4695/पं0रा0, पटना दिनांक-
19/08/2021

प्रतिलिपि- आयुक्त पटना प्रमंडल, पटना/सचिव, राज्य निर्वाचन आयोग, बिहार/जिला पदाधिकारी, पटना/जिला पंचायत राज पदाधिकारी, पटना को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

ह0/-
19/8/21
(डॉ0 रणजीत कुमार सिंह)
निदेशक

ज्ञापांक- 3प/विविध-17-21/2020/4695/पं0रा0, पटना दिनांक-
19/08/2021

प्रतिलिपि- सचिव, सूचना एवं जन सम्पर्क विभाग, बिहार, पटना को जन साधारण की जानकारी हेतु समाचार के रूप में समाचार पत्रों में प्रकाशनार्थ प्रेषित।

ह0/-
19/8/21
(डॉ0 रणजीत कुमार सिंह)
निदेशक

ज्ञापांक- 3प/विविध-17-21/2020/4695/पं0रा0, पटना दिनांक
19/08/2021



प्रतिलिपि— माननीय मंत्री के आप्त सचिव, पंचायती राज विभाग, बिहार
पटना को सूचनार्थ प्रेषित।

ह0/—

19/8/21

(डॉ0 रणजीत कुमार सिंह)

निदेशक

ज्ञापांक— 3प/विविध-17-21/2020/4695/पं0रा0, पटना दिनांक
19/08/2021

प्रतिलिपि— आई0टी0 प्रबंधक, पंचायती राज विभाग, बिहार पटना को
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अग्रसारित।

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19/8/21

(डॉ0 रणजीत कुमार सिंह)

निदेशक

26. A perusal of the order would show that she was holding the post of the Chairperson of the 'Advisory Committee' of the Zila Parishad, Patna and having failed to call its meeting became the reason for the removal of respondent no.8. Further, the order shows that she was removed from the post for the rest of the period of the Advisory Committee.

27. From the aforesaid facts, it is clear that she was not holding the post of the Chairperson of the Zila Parishad, Patna so constituted rather its Advisory Committee which was constituted as an interim measure till the election which was due.

28. Again the fact remains that though her



removal was challenged by the respondent no.8 in CWJC No. 14924 of 2021 which was disposed of as infructuous, no one much less the petitioner challenged the said order which incorporated her removal for the rest of the tenure and as such it became final.

29. Thus in the considered opinion of the Court, as the respondent no.8 was not holding the post of Chairperson of Zila Parishad, Patna rather the Advisory body which was created as an interim measure till the fresh election is/was to be held and further her removal order clearly spoke about the period i.e. for the rest of the tenure which remained unchallenged, section 70(5) of 'the Act' will not come into picture in this particular case.

30. So far as the case of **Satyendra Yadav** (supra) cited by the learned Senior Counsel for the petitioner is concerned, the same will not be applicable in the case of respondent no.8 for the simple reason that she was not holding the post of the Chairperson of the Zila Parishad, Patna rather its Advisory Committee which was created as an interim measure till a fresh election is/was to be held. The removal has not been made under section 70(5) of 'the Act' rather taking note of notification no.2757 dated 09.06.2021 for the rest of the period.



31. A re-look on the removal order dated 19.08.2021 issued by the Additional Chief Secretary would show that such order has been passed in the light of the provision contained in notification no. 2757 dated 09.06.2021 by which the Advisory Committee was created. Thus, this Court is of the opinion that since removal order speaks about notification dated 09.06.2021 by which the Advisory Committee was constituted, the case of **Ravi Yashwant Bhoir** (supra) and/or the definition of '**misconduct**' need no discussion. It is to be noted that the Hon'ble Apex Court in the said case noted that not convening meeting cannot necessarily be cause for the removal as such.

32. This Court holds that the removal of the respondent no.8 from the post of Chairperson of the Advisory Committee vide memo no. 4695 dated 19.08.2021 being made for the rest of the period, the decision of the respondent no.6 dated 22.06.2024 need no interference.

33. This Court further holds that the respondent no.6, the District Magistrate, Patna rightly held that the removal of the respondent no.8 having made in line with the notification no. 2757 dated 09.06.2021 for the rest of her tenure, the objection is not acceptable. Following the said order, the



respondent no.8 having polled majority of the votes was rightly declared elected as the 'Chairperson' of the Zila Parishad, Patna.

34. This takes the Court to only one conclusion.

The writ petition is bereft of merit and is accordingly dismissed.

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	10.09.2024
Uploading Date	23.09.2024
Transmission Date	

