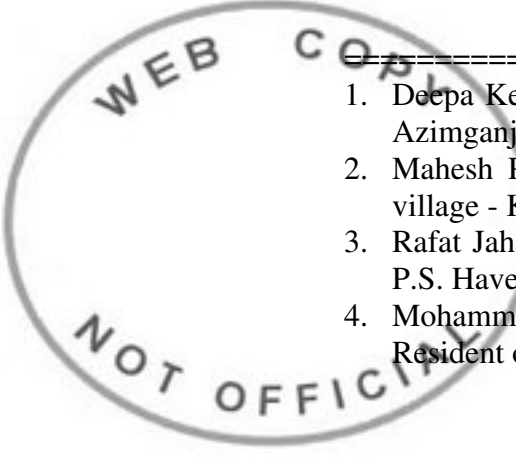


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14425 of 2014

- 
1. Deepa Keshri, aged about 35 yrs W/o Rajesh Kumar Keshri Resident of West Azimganj, Havli Kharagpur, P.S. Haveli Kharagpur, District Munger.
 2. Mahesh Prasad Saw, aged about 52 yrs. S/o Late Sukhdeo Saw resident of village - Khas Bazar, P.S. - Haveli Kharagpur, District - Munger.
 3. Rafat Jahan, aged about 52 yrs. W/o Inamul Haq Resident of West Azimganj, P.S. Haveli Kharagpur, District Munger.
 4. Mohammad Taslimuddin, aged about 54 yrs. S/o Late Mohammad Saffiq Resident of Mohalla Badi Durga Sthan Mansooq Tola, District Munger.

.... Petitioner/s

Versus

1. The State of Bihar through the Department of Urban Development, Govt. of Bihar.
2. Executive Officer, Nagar Panchayat Haveli Kharagpur, District Munger.
3. Sikandar Rabidas S/o Late Chandan Rabidas Resident of Mohalla West Azimganj Haveli Kharagpur, District Munger.
4. Vinay Kumar Jha S/o Sukhdeo Jha Resident of Mohalla Kaderganj, P.S. Haveli Kharagpur, District Munger.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 14967 of 2014

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Mahesh Prasad Saw son of Late Shukh Dev Saw, resident of Khas Bazar Ward No. 14, Hanhaveli Kharagpur, District- Munger

.... Petitioner/s

Versus

1. The State of Bihar through the Department of Urban Development Government of Bihar
2. Executive Officer Nagar Panchayat Haveli Kharagpur, District- Munger
3. Sikandar Ravidas, son of Late Chandan Rabi Das, resident of Mohalla West Azimganj, Havelikharagpur, District- Munger
4. Rakesh Kumar, son of Ram Dev Saw, resident of Village- Situhar, Haveli Khargpur, District- Munger
5. Shyam Bihari Tekriwal, son of Late Shanker Lal Tekriwal, resident of Marwari Tola, Haveli Khargpur, District- Munger
6. Anita Devi W/o Niranjana Mishra, resident of Mulk Tand, Ward No. 17, Haveli Khargpur, District- Munger
7. Shri Vipin Kumar, son of Ganesh Khareri, resident of Ward No. 11 Haveli Khargpur
8. Radha Devi, Marwari Tola, Haveli Kharagpur, District-Munger
9. Vibha Devi, Training School, Haveli Kharagpur, District-Munger

10 Nirmala Devi, Saho Tola, Haveli Khararpur, District-Munger
 11 Vinay Kumar Jha, Kadarganj, Haveli Kharagpur, District-Munger
 12 Deepa Keshri, Khas Bazar, Haveli Kharagpur, Munger
 13 Rafat Jahan, M. Tola, Haveli Kharagpur, District-Munger
 14 Vinod Kumar, Dularpur, Haveli Kharagpur, District-Munger
 15 Sub Divisional Officer, Haveli Kharagpur, District-Munger

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16158 of 2014

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Deepa Keshri W/o Rajesh Kumar Keshri, resident of Khas Bazar Ward No. 10,
 Havli Kharagpur, District- Munger

.... Petitioner/s

Versus

1. The State of Bihar through the Department of Urban Development, Government of Bihar
2. Executive Officer, Nagar Panchayat, Haveli Kharagpur, District-Munger
3. The Sub-Divisional Magistrate, Haveli Kharagpur, District-Munger
4. Sikandar Ravidas son of Late Chandan Ravidas, resident of Mohalla-West Azimganj, P.S. Haveli Kharagpur, District-Munger
5. Rakesh Kumar son of Ram Deo Sah, resident of village-Situhar, P.S. Haveli Kharagpur, District-Munger
6. Shyam Bihari Tekriwal son of Late Shankar Lal Tekriwal, resident of Marwari Tola, P.S. Haveli Kharagpur, District-Munger
7. Anita Devi wife of Niranjana Mishra, resident of Mulk Tand, P.S. Haveli Kharagpur, District-Munger
8. Bibha Devi wife of Ram Saran Rajak, resident of Sant Tola, P.S. Haveli Kharagpur, District-Munger
9. Indu Devi wife of Umesh Mandal, resident of village- Mahadeopur, P.S. Haveli Kharagpur, District-Munger
10. Radha Devi wife of Shankar Kesri, resident of village-Katiya Bazar, P.S. Haveli Kharagpur, District-Munger
11. Binay Kumar Jha son of not known to the petitioner, resident of village-Kadarganj, P.S. Haveli Kharagpur, District-Munger
12. Muniya Devi wife of Tusso Manjhi, resident of Mohali-Situhar Musahri, P.S. Haveli Kharagpur, District-Munger
13. Nirmala Devi wife of not known to the petitioner, resident of village-Sahoo Tola, P.S. Haveli Kharagpur, District-Munger
14. Vinod Kumar son of not known to the petitioner, resident of village-Dularpur, P.S. Haveli Kharagpur, District-Munger
15. Ram Manohar son of Singheshwar Mandal, resident of village-Situha, P.S. Haveli Kharagpur, District-Munger
16. Mahesh Prasad son of Late Sukhdeo Saw resident of Khas Bazar, P.S. Haveli Kharagpur, District-Munger

.... Respondent/s

Appearance:**(In CWJC No. 14425 of 2014)**

For the Petitioner/s : Ms. Shilpi Keshri, Advocate

For the State-Respondent/s : Mr. M.K. SINGH, SC-6

Mr. M.K. Singh, A.C. to SC-6

For the Respondent No. 2 : Mr. Parijat Saurav, Advocate

(In CWJC No. 14967 of 2014)

For the Petitioner/s : Mr. Behzad Akhtar, Advocate

For the State-Respondent/s : Mr. A. HAIDER, SC-16

For the Respondent No. 2 : Mr. Ravi Ranjan, Advocate

(In CWJC No. 16158 of 2014)

For the Petitioner/s : Mr. Behzad Akhtar, Advocate

For the Respondent/s : Mr. MANIKANT MISHRA, Advocate

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**ORAL JUDGMENT****Date: 17-12-2015**

Heard the parties.

Whereas CWJC No. 14425 of 2014 was filed by the two petitioners questioning the initiation of the proceedings, it is after the motion passed that the other two writ petitions have been filed by the Deputy Chief Councillor and the Chief Councillor respectively.

Considering that the matters are inter connected, all the three writ petitions have been taken up together with a view to their final disposal with the consent of the parties at the stage of admission itself.

Whereas the petitioner Deepa Keshri happens to be the Ex-Chief Councillor of the Nagar Panchayat, Haveli Kharagpur in the District of Munger, the other petitioner Mahesh Prasad Saw is the Ex-Deputy Chief Councillor and both these elected representatives of the

Municipality have been unseated in the 'no confidence motion' passed against them in the special meeting held on 16.8.2014.

The facts are not in dispute. The only dispute is whether the motion passed in the special meeting held on 16.8.2014 suffers from any infirmity. The only ground raised by Mr. Behzad Akhtar appearing for the Chief Councillor and the Deputy Chief Councillor is that there is no provision under the Bihar Municipal Act, 2007 (hereinafter referred to as 'the Act') or the Bihar Municipal No Confidence Motion Process Rules, 2007 (hereinafter referred to as 'the Rules') to provide for an election observer and although the petitioners did participate in the meeting but since the proceedings were being delayed awaiting the report of the Observer that on the instructions of the Executive Officer these two petitioners left the meeting and whereafter behind their back the special meeting has been held.

Fact remains that the two petitioners are signatory to the minutes of the special meeting held on 16.8.2014, a copy of which is enclosed at Annexure-A to the counter affidavit of the Executive Officer filed in CWJC No. 18967 of 2014 and also records that before the meeting could be taken to its logical conclusion that these two petitioners left the meeting. In the meeting the allegations were



discussed and the discussion led to the casting of secret ballot by the 11 members out of 13 members present in which 10 voted in support of the motion moved against the Chief Councillor and 11 voted to oust the Deputy Chief Councillor. Since the vote cast to support the motion moved against the two petitioners constituted a majority hence they were ousted. It is following the ouster that re-election has taken place and whereas one Nirmala Devi has been appointed as Chief Councillor and is holding the post, the election to the post of Deputy Chief Councillor remains stayed under the interim orders passed in the present proceedings.

I have heard learned counsel for the parties and I have perused the records. An exhaustive counter affidavit has been filed by the Executive Officer placing on record the necessity of the Observer and though serious objections have been raised by Mr. Akhtar to the placement of the Observer but in my opinion considering that these Observers have not interfered with the proceedings of the special meeting rather were posted out of necessity, for having a peaceful proceeding, I find no reason to interfere with the motion on that account. Insofar as the other issue raised by the petitioners regarding their leaving the meeting on the instructions of the Executive Officer is concerned, for the said act of these petitioners, it is the petitioners

themselves to be held responsible for unless the Presiding Officer of the meeting declares the meeting concluded, none can leave the meeting.

In any view of the matter considering that the majority of the elected members have voted to oust the two petitioners, I am not persuaded to interfere with the motion.

The three writ petitions are accordingly dismissed.

The interim order passed staying the election of the Deputy Chief Councillor stands vacated.

(Jyoti Saran, J)

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