

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6512 of 2015

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1. Dhanjit Singh, S/o Late Banshi Singh, Resident of Village Madhubani, PO Pahusi, PS- Kursukanta, District- Araria, Presently Pramukh of Panchayat Samiti, Kursakanta, Village Madhubani, PO Pahusi, PS- Kursukanta, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna
 3. The Director, Panchayati Raj Department, Government of Bihar, Patna
 4. The District Magistrate, Araria
 5. The Sub-Divisional Officer, Sub-Division - Kursukanta, District - Araria
 6. The Block Development Officer, Kursukanta -cum- the Executive Officer, Block Panchayat Samiti, Kursukanta, District - Araria
 7. Akhtari Begum, W/o Shamshul Haq, Resident of Village +PO+PS- Kursukanta, District-Araria, Presently Up-Pramukh, Panchayat Samiti, Kursakata, District Araria
 8. Sushil Kumar Singh, s/o Late Chandra Dev Singh, Resident of Village Rajaula, PO- Asha bhag Patraha, PS- Sonamani Godam, District-Araria
 9. Amar Singh, S/o Baidyanath Singh, resident of Village- Sisawari, PO+PS- Kuwari, District- Araria
 10. Anmol Devi, W/o Sita Ram Paswan, Resident of Village-Rajaula, PO- Batraha, PS-Sonamani Godan, District-Araria
 11. Pinki Devi, W/o Not Known to the petitioner
 12. Meena Devi, W/o Not Known to the petitioner,
 13. Shyam Kumar Mandal. S/o Not Known to the petitioner
 14. Gufrana, W/o Not Known to the petitioner
 15. Umesh Mandal, S/o Not Known to the petitioner
 16. Patsiya Devi, W/o Not Known to the petitioner
 17. Chamanlata Devi, W/o Not Known to the petitioner
 18. Manoj Jha, S/o Not Known to the petitioner
 19. Ram Raj Sah, S/o Not Known to the petitioner
 20. Pramodanand Jha, S/o Not Known to the petitioner
 21. Meena Devi, W/o Not Known to the petitioner
 22. Meera Devi, W/o Not Known to the petitioner
 23. Dadurun Nisha, W/o Not Known to the petitioner
- Respondent No. 08 to are the elected members of Block Panchayat Samiti, Kursakanta, District -Araria through the Block Development Officer, Kursakanta -cum- Executive Officer, Kursakanta Block Panchayat Samiti, District- Araria.
24. The State Election Commission through State Election Commissioner (Panchayat), 3rd floor, Sone Bhawan, Beer Chand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Mangalam, Adv.
For the Respondent/s	:	Mr. Sanjay Mandal A.C. to S.C.6
For the S.E.C.	:	Mr. Girish Pandey, Adv.
For the private respondent:		Mr. Chakrapani, Adv.
		Mr. Prabhat Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

3 09-07-2015

Heard Mr. S.B.K. Mangalam, learned counsel for the petitioner, Mr. Sanjay Mandal A.C. to S.C.6 for the State, Mr. Girish Pandey for the State Election Commission and Mr. Chakrapani and Mr. Prabhat Kumar for the private respondent.

The petitioner is an Ex-Pramukh of Panchayat Samiti, Kursakanta in the district of Araria and has been unseated in a no confidence motion passed against him on 7.5.2015.

Although several issues were raised by Mr. Mangalam appearing on behalf of the petitioner which stands noted in the order of this Court dated 21.5.2015 and are being reproduced herein below for ready reference but the writ petition is fit to be allowed on a limited ground of violation of the provisions of Section 46(4) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') by the Executive Officer-cum-Block Development Officer, Kursukanta District Araria while issuing the notice convening special meeting dated 30.4.2015, a copy of which is placed at Annexure-4 to the writ petition. It has been argued that:

- (a) The requisition has not been presented in the manner prescribed;
- (b) The date of special meeting has been fixed by the Executive Officer himself as reflecting from the notice

fixing date of special meeting on 07.05.2015 present at Annexure 4; and

(c) The respondent no. 6 issued notice of holding special meeting under Memo No. 887 dated 30.4.2015 placed at Annexure-4, but there is no clear 7 days gap in between the notice dated 30.04.2015 and the special meeting fixed on 07.05.2015 as mandated under Section 46 (4) of the Bihar Panchayati Raj Act, 2006 (hereinafter referred to as 'the Act').

Undisputedly, the notice convening special meeting on 7.5.2015 has been issued on 30.4.2015 and thus in view of the statutory provisions underlying Section 46(4) of 'the Act', there being less than seven days gap in between the notice and the date of special meeting, the special meeting held on 7.5.2015 as well as the no confidence motion passed thereon stands invalidated in view of the judgment of this Court rendered in the case of **Meena Yadav Vs. State** reported in **2004(2)PLJR 367**.

Mr. Chakarpani, learned counsel for the private respondents without disputing the issues raised by the petitioner concedes with the suggestion that the petitioner may be directed to fix the date of special meeting without delay and the Executive Officer should circulate the notice without inviting any further legal infirmity while issuing the same. The suggestion of Mr. Chakrapani is reasonable and Mr. Mangalam cannot object to the same.

In so far as the issue of presentation of requisition is concerned, the stage at which the proceedings rests today, in my

opinion the issue has become academic and the requisition now admittedly within the knowledge of the Pramukh, he would be duty bound to fix a fresh date for convening special meeting to consider the no confidence motion.

In the circumstances discussed, the no confidence motion passed against the petitioner on 7.5.2015 is set aside. The petitioner is restored to the post of Pramukh. The petitioner shall fix the date of special meeting on/ or before 15.7.2015 failing which the requisitionists shall take such decision in the light of the statutory power so vested in them under Section 44(3) of 'the Act' and this time if the Executive Officer-cum-Block Development Officer, Kursakanta shall commit any statutory violation in issuing notice convening special meeting, whether of Section 44(3)(v) or of Section 46(4) of 'the Act', he shall be held guilty of contempt of this Court's order.

This is a warning to the Executive Officer to strictly act as per the statutory provisions.

The writ petition is allowed with the directions aforementioned.

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(Jyoti Saran, J)