

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13040 of 2015

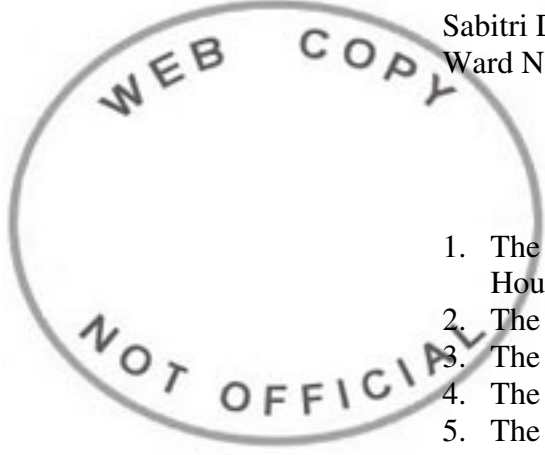
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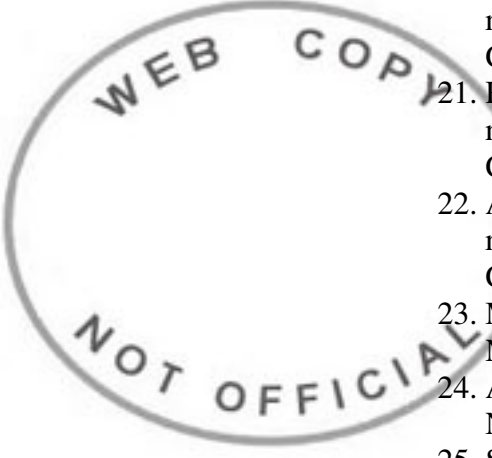
Sabitri Devi, wife of Suresh Sah, resident of Purani Bazar, Ram Nagar,
Ward No. 14, P.S. Ram Nagar, District-West Champaran at Bettiah

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Urban Development and Housing Department, Government of Bihar, Patna
2. The Secretary, Bihar State Election Commission, Sone Bhawan, Patna
3. The Collector, West Champaran at Bettiah
4. The Sub Divisional Officer, Bagha, West Champaran
5. The Nagar Panchayat Ram Nagar, at Ram Nagar, P.S. Ram Nagar, District-West Champaran at Bettiah through its Executive Officer cum Circle Officer, Ram Nagar, Bettiah, West Champaran
6. The Circle Officer cum Executive Officer, Ram Nagar, P.S. Ram Nagar, District-West Champaran at Bettiah
7. The Designated Executive Magistrate, Bagha, P.S. Bagha, District-West Champaran at Bettiah, West Champaran
8. The Officer In Charge, Ram Nagar Police Station, Ram Nagar, West Champaran at Bettiah, West Champaran
9. Smt. Jayaun Nisha wife of Sk. Aurangjeb Councillor of Ward No. 5, resident of Haji Tola, New Market, Ram Nagar, P.S. Ram Nagar, West Champaran
10. Jalpari Devi, wife of Kashi Yadav, Councillor of Ward No. 1, resident of Murila Ward No. 1, Ram Nagar, P.S. Ram Nagar, West Champaran
11. Chaman Singh Nepali, daughter of Late Ram Bahadur Singh Nepali, Councillor of Ward No. 2, resident of Bari Tola, Ward No. 3, P.S. Ram Nagar, District-West Champaran
12. Nivedita Shah, wife of Abhay Bikram Shah, Councillor of Ward No. 3, resident of Bari Tola, Ward No. 3, P.S. Ram Nagar, District-West Champaran
13. Sita Ram Mahto, son of Late Gulab Mahto, Councillor of Ward No. 4, resident of Dhangad Toli, Ward No. 4, P.S. Ram Nagar, District-West Champaran
14. Mukesh Kumar son of Ram Nayan Pandit, Councillor of Ward No. 6, resident of Thakur Bari Tola Ward No. 4, P.S. Ram Nagar, District-West Champaran
15. Manoj Shah son of Shiv Puja Shah, Councillor of Ward No. 7, resident of Main Road Narain Pur, Ward No. 7, P.S. Ram Nagar, District-West Champaran
16. Smt. Vidyavati Devi, wife of Jawahar Choudhary Councillor of Ward No. 8, resident of Narayanpur, Ward No. 8, P.S. Ram Nagar, District-West Champaran
17. Bhuneshwar Agarwal son of Late Satyanarayan Agarwal, Councillor of Ward No. 09, resident of Purani Bazar, Ward No. 16, P.S. Ram Nagar, District-West Champaran
18. Smt. Amrita Singh wife of Anant Kumar Singh @ Pappu Singh Councillor of Ward No. 11, Ram Nagar, District-West Champaran
19. Smt. Beauty Kumari wife of Ram Babu Kumar, Councillor of Ward No.



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- 11, resident of Ram Janki Chowk, Purani Bazar, Ward No. 11, Ram Nagar, District-West Champaran
 20. Rajendra Yadav, son of Ganga Yadav, Councillor of Ward No. 12, resident of Baikunthapur, Ward No. 12, P.S. Ram Nagar, West Champaran
 21. Ranjan Kumar Nag son of Kishori Prasad, Councillor of Ward No. 13, resident of Sabuni Ward No. 13, P.S. Ram Nagar, District-West Champaran
 22. Amarendra Singh son of Awadhesh Singh, Councillor of Ward No. 15, resident of Miskar Toli, Ward No. 15, P.S. Ram Nagar, District-West Champaran
 23. Md. Islam son of St. Hussain, Councillor of Ward No. 16, resident of Narayan Pur, Ward No. 8, Ram Nagar, District-West Champaran
 24. Anand Prakash son of Maheshwar Narayan Singh, Councillor of Ward No. 21, P.S. Ram Nagar, District-West Champaran
 25. Sugandhi Devi, wife of Chinta Mani Tiwari @ Nathuni Tiwari, Councillor of Ward No. 18, resident of Bilashpur, Ward No. 18, P.S. Ram Nagar, District-West Champaran
 26. Savita Devi, wife of Tarkeshwar Ram, Councillor of Ward No. 19, resident of Bilashpur, Ward No. 19, P.S. Ram Nagar, West Champaran
 27. Indu Bharti wife of Niranjana Kumar, Councillor of Ward No. 20, resident of Belagola Hari Nagar, Ward No. 20, P.S. Ram Nagar, District-West Champaran
 28. Vijendra Kumar Choubey, son of Late Narsingh Choubey, Councilor of Ward No. 21, resident of Rally Bazar, Ram Nagar, Ward No. 21, P.S. Ram Nagar, District-West Champaran
 29. Kaniya Begum wife of Abdul Kalam, Councillor of Ward No. 22, resident of Bahuari Near Mill Ward No. 23, P.S. Ram Nagar, District-West Champaran
 30. Munni Nisha wife of Md. Salauddin, Councillor of Ward No. 23, resident of Bahuari near Mill, Ward No. 23, P.S. Ram Nagar, District-West Champaran

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Baxi S.R.P. Sinha, Sr. Advocate
Mr. Dronacharya, Advocate
Mr. Binod Kumar Yadav, Advocate

For the State E.C. : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate

For the Respondent/s : Mr. Ritesh Kumar, SC-33

For the private respondents: Mr. Ravindra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 24-08-2015

Heard Mr. Baxi S.R.P. Sinha, learned senior counsel

for the petitioner, Mr. Ritesh Kumar, Standing Counsel-33 for the

State, Mr. Girish Pandey for the State Election Authority and Mr. Rabindra Kumar for the private respondent nos. 12, 14, 16, 17, 22, 24 to 30.

The petitioner who happens to be the Chief Councillor of Nagar Panchayat Ram Nagar in the District of West Champaran at Bettiah has questioned the resolution dated 17.7.2015 whereunder a 'no confidence motion' has been passed against the petitioner.

Three issues were raised by Mr. Sinha to question the motion, namely:-

- (a) The Presiding Officer has exercised a casting vote;
- (b) The notice is beyond 7 days and thus violative of Rule 2(i) of the 'No Confidence Motion' Rules, 2010 (hereinafter referred to as 'the Rules') which mandates fixing a date of hearing of meeting within 7 days; and
- (c) The motion was not read over and explained during the special meeting as mandated under Clause 2(v) of 'the Rules'.

I have heard learned counsel for the parties and I have perused the records. Insofar as the issue regarding exercise of casting vote is concerned, the law stands settled under the judgment of this Court reported in **2012(2) PLJR 525 (Rajeshwar**

Prasad vs. State of Bihar) and the right vested in the Presiding Officer to exercise a casting vote in addition to his vote as the Member of the Samiti stands recognized. Insofar as the issue regarding fixing the date of meeting is concerned, I am surprised that the petitioner being the Chief Councillor is raising such issue when it was her duty to fix the date within 7 days of receipt of the requisition failing which it passed over to the requisitionists under Rule 2(iii) of 'the Rules'. Insofar as the violation of the provision of Rule 2(v) is concerned, the resolution itself at Proposal No. 3 reflects that the motion was put before the members meaning thereby it was discussed and thus the statutory prescription stands satisfied.

Finding no merit in the issues so raised, the writ petition is dismissed.

(Jyoti Saran, J)

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