

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3821 of 2014

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1. Susita Devi Wife of Subodh Kumar Yadav Resident of Village- Dostiya, P.O. Dostiya, P.S. Purnahiya, District- Sheohar, Presently Pramukh of Block Panchayat Samiti, Purnahiya, District- Sheohar
2. Faiyaz Hussain Son of Zahir Hussain Resident of Village and P.O. Barahi Jagdish, P.S. Purnahiya, District- Sheohar, Presently Up-Pramukh of Block Panchayat Samiti, Purnahiya, District- Sheohar

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
3. The Director, Panchayati Raj Department, Government of Bihar, Patna
4. The District Magistrate, Sheohar, District- Sheohar
5. The Sub-Divisional Officer, Sheohar, District- Sheohar
6. The Block Development Officer, Purnahiya-Cum-Executive Officer, Block Panchayat Samiti, Purnahiya, District- Sheohar
7. Pankaj Kumar Son of Not Known to the petitioners
8. Asha Devi Wife of Not Known to the petitioners
9. Sudama Devi Wife of Not Known to the petitioners
10. Krishna Nandan Thakur Son of Not Known to the petitioners
11. Mukesh Paswan Son of Not Known to the petitioners
12. Rajesh Kumar Mishra Son of Not Known to the petitioners
13. Bindu Devi Wife of Not Known to the petitioners
14. Anita Devi Wife of Not Known to the petitioners
15. Upendra Patel Son of Not Known To the petitioners respondent Nos. 7 to 15 are the Members of the Block Panchayat Samiti, Purnahiya through The Block Development Officer-Cum-Executive Officer, Block Panchayat Samiti, Purnahiya, P.O. Purnahiya, District- Sheohar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. B. K. Manglam, Adv.

For the Respondent-State: Mr. Amaresh Kumar A.C. to S.C.11

For the private respondent: Mr. Anirudh Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 29-06-2015 Heard Mr. S.B.K. Mangalam, learned counsel for the petitioners, Mr. Amaresh Kumar A.C. to S.C.11 for the State and Mr. Anirudh Mishra for the private respondents.

The petitioners are Pramukh and Up-Pramukh of Panchayat

Samiti, Purnahiya in the District of Sheohar and have challenged the no confidence motion passed against them in the special meeting held on 18.2.2014, a copy of which is placed at Annexure-5 to the Interlocutory Application No. 1950 of 2014.

The no confidence motion has been questioned by the Pramukh and the Up-Pramukh on the limited ground alleging non service of requisition on the Pramukh in the manner prescribed under section 44(3)(i) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act'). Following the no confidence motion passed against the petitioners that a re-election has taken place on 12.3.2014 in which the respondent No.7, Pankaj Kumar and respondent No.8 Asha Devi have been elected as Pramukh and Up-Pramukh respectively. Since the no confidence motion was sought to be questioned on the limited count of non service of requisition on the Pramukh i.e. petitioner no.1 in the manner prescribed under Section 44(3)(i) of 'the Act' that this Court issued notice to the non appearing respondents and the respondent No.7 i.e. the newly elected Pramukh and the others including the newly elected Up-Pramukh have also appeared through counsel Mr. Alok Kumar.

Although the matter was heard on 22.6.2015 when time was granted to the counsel appearing for the newly elected office bearers to file counter affidavit but it has not been filed. A prayer for adjournment is disallowed on this ground.



The counter affidavit filed on behalf of the State does not in any manner contest the issue raised by the petitioners. On the contrary Mr. Mangalam learned counsel for the petitioners with reference to the letter of the Block Development Officer-cum-Executive Officer, Purnahiya dated 27.1.2014, a typed copy of which is placed at Annexure-1 and the original copy whereof has been placed on record as Annexure-7 to the supplementary affidavit filed today, has submitted that whereas there is no mention regarding any enclosure to the said letter in the copy endorsed to the petitioner present at Annexure-7 the Block Development Officer has tried to interpolate the records by incorporating the enclosure into the letter as is evident from Annexure-C to the counter affidavit filed on behalf of the official respondents. A mere perusal of Annexure-C in comparison with Annexure-7 which is the copy endorsed to the petitioner would leave no room for confusion that the Block Development Officer who is the Executive Officer of the Panchayat Samiti has tried to interpolate the same by incorporating the enclosure.

The Block Development Officer is warned of disciplinary action being recommended against him if any such instance would occur in future. In fact since the Block Development Officer has already mentioned in his letter that the copy of the requisition was enclosed with the letter, there was no occasion for him to interpolate

the records by incorporating the enclosure.

By that as it may, reverting to the issue raised by Mr. Mangalam there is nothing on record of the proceedings to contest the issue raised by him regarding non service of requisition.

In view of such uncontested position, where there is nothing on record to demonstrate that the requisition was not presented to the petitioner-Pramukh in the manner prescribed under Section 44(3)(i) of 'the Act' rather Annexure-3 of the writ petition registers a protest by the Pramukh to the Executive Officer regarding non service thereof, in my opinion the proceeding of no confidence motion stood invalidated and as a consequence the no confidence motion passed thereon against the petitioner on 18.2.2014 vide Annexure 5 cannot be upheld and is accordingly set aside.

As a consequence the re-election of the respondent No.7 Pankaj Kumar as Pramukh and respondent No.8 Asha Devi as Up-Pramukh also cannot be upheld and are accordingly set aside. The petitioners are restored to their respective posts of Pramukh and Up-Pramukh respectively. The writ petition is allowed. This order however, would not preclude the Panchayat Samiti to proceed afresh against the petitioners but in accordance with law.

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(Jyoti Saran, J)