

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12744 of 2014

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Nandani Devi wife of Sri Jai Prakash Yadav, resident of village: Gourab Garh, under Panchayat Khap, P.S: Sour Bazar, District: Saharsa, at present Up-Pramukh, Panchayat, Sour Bazar, District- Saharsa

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Development Department, Government of Bihar, Patna.
2. The Director, Panchayati Raj, Department, Bihar, Patna.
3. The District Panchayat Raj Officer, Saharsa.
4. The District Magistrate, Saharsa.
5. The S.D.O., Saharsa.
6. The Block Development Officer-cum-Chief Executive Officer, Sour Bazar Block, District- Saharsa.
7. Shri Sushil Kumar Son of Bhuneshwar Kamat resident of Village AND P.O: Rampur, Member Panchayat Samiti, Gamharia, P.S: Sour Bazar, District: Saharsa.
8. Shri Santosh Kumar Son of Shatrughan Prasad Yadav resident of Village AND P.O. Khajuri, Member Panchayat Samiti, Khajuri, P.S: Sour Bazar, District: Saharsa
9. Smt. Madhu Devi Wife of Surendra Ram resident of Village AND P.O: Tiri, Member Panchayat Samiti, Tiri, P.S: Sour Bazar, District: Saharsa.
10. Shri Arvind Thakur Son of Bhuli Thakur resident of Village: Maheshpur, P.O: Samdha, Member Panchayat Samiti, Chounder, West, P.S.: Sour Bazar, District- Saharsa.
11. Madan Sah Son of Natu Sah resident of Village- Rupauli, P.O: Sahuria, Member Panchayat Samiti, Sahuria East, P.S.: Sour Bazar, District: Saharsa.
12. Smt. Anita Devi wife of Raj Kishore Yadav, resident of village AND P.O.- Madhura, Member Panchayat Samiti, Nado, P.S.: Sour Bazar, District; Saharsa.
13. Yogendra Ram Son of Late Paro Ram Resident of Village AND P.O: Kanp, Member Panchayat Samiti, Kanp West, P.S.: Sour Bazar, District: Saharsa.
14. Rukamani Devi wife of Ragho Sharma, resident of Village AND P.O.: Rauta Khem, Member Panchayat Samiti, Rauta Khem, P.S.: Sour Bazar, District: Saharsa
15. Sri Satya Narayan Sah son of Jamun Sah, resident of Village AND P.O: Kachara, Member Panchayat Samiti, Kadheya, P.S.: Sour Bazar, District: Saharsa.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Chandra Mohan Jha, Advocate
For the Respondent/s : Mr. Kaushal Kumar Jha, AAG-14
Mr. Manish Kumar, AC to AAG-14
For the State E.C. : Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

07-10-2015

Heard Mr. Chandra Mohan Jha for the petitioner, Mr. Manish Kumar, Assisting Counsel to AAG-14 for the State, Mr. Ranjeet Choubey for the respondent nos. 7 to 15 and Mr. Girish Pandey for the State Election Commission.

The petitioner is aggrieved by the 'no confidence motion' stated to have been passed against the petitioner on 07.5.2014, the proceedings of which are placed at Annexure-2. The petitioner happens to be the Up-Pramukh of Panchayat Samiti, Sour Bazar in the District of Saharsa and was elected to the post on 28.6.2011. Upon a motion being moved against her that the special meeting was held on 07.5.2014 and which was attended by only 9 members of the Panchayat Samiti. The only issue that has been raised by the petitioner to question the motion is that in a 24 elected member Samiti, the special meeting held on 07.5.2014 was attended by only 9 members and which was reduced to casting of ballots after the discussion and in which all the 9 members voted in support of the motion. It is argued that even when the nine members did not constitute a majority in a 24 elected member Samiti, yet illegally the petitioner has been ousted.

It is pursuant to the notice issued that the respondents have appeared and have been heard.

Having heard learned counsel for the parties and considering that the petitioner has been ousted in a motion supported by only 9 members who did not constitute a majority in a 24 elected member Samiti, the motion so declared passed is held illegal and is thus set aside.

As a consequence the petitioner stands restored to her post of Up-Pramukh. The writ petition is allowed.

(Jyoti Saran, J)

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