

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4097 of 2015

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Malti Devi, wife of Late Triyogi Prasad Singh, Resident of village, P.O. and P.S. Vaishali, District- Vaishali at Hajipur, presently Pramukh of Block Panchayat Samiti, Vaishali, District- Vaishali at Hajipur.

.... Petitioner

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 Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The District Magistrate, Vaishali at Hajipur, District- Vaishali at Hajipur.
5. The Block Development Officer, Vaishali -cum-Executive Officer, Block Panchayat Samiti, Vaishali, District- Vaishali at Hajipur.

.... Respondents

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 10-12-2015

The writ petitioner complains against the conduct of the Executive Officer-cum-Block Development Officer, Vaishali in the district of Hajipur in taking his own time to circulate the notice convening the special meeting under Section 44(3)(i) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as “the Act”) which casts an obligation on the Executive Officer to immediately serve notice on the members of the Panchayat Samiti no sooner a date of special meeting is fixed by the Pramukh, the Up-Pramukh or the requisitionist as the case may be to consider a ‘No Confidence Motion’ moved against a Pramukh or Up-Pramukh or both .

The complaint of the petitioner is that although in the



present case the petitioner as the Pramukh had fixed the date of special meeting on 2.1.2015 vide Annexure-2 for 19.1.2015 bearing in mind the provisions of Section 46(4) of “the Act” and communicated the same to the Executive Officer requiring him to issue the required notice but the Executive Officer-cum-Block Development Officer sat tight over the matter and delayed the issuance of notice to ultimately issue the same on 12.1.2015 which left no clear seven days gap in between the date of the notice and the date of special meeting which had already been fixed for 19.1.2015.

According to the petitioner this act of the respondent no. 5, the Executive Officer-cum-Block Development Officer was with a sole intention to accord benefit to the Up-Pramukh for the notice clearly violates the provisions of Section 46(4) of “the Act” and any meeting held, stands invalidated. It is however conceded by Mr. S.B.K. Mangalam, learned counsel appearing on behalf of the petitioner that he has no intimation about present status.

The conduct of the Executive Officer as raised in the writ petition has been a subject matter of several writ petitions and when this Court had directed the Principal Secretary, Panchayati Raj Department to take appropriate corrective steps for curbing this menace. Whatever be the steps taken by the Principal

Secretary in this regard, the situation has not changed much for instances of the present kind are attracting the attention of this Court at regular intervals.

Mr. Mangalam, learned counsel for the petitioner has invited the attention of this Court towards the observation of the Division Bench in a similar situation, in a case reported in **2010(2) PLJR 389 [Meena Yadav and another vs. the State of Bihar and ors.]** and I am persuaded to quote the relevant extract of para 14 thereof:

“ In case of deliberate disregard of law noticed above, the Commissioner would be well advised to take action against them. In case of deliberate disregard of such statutory provision by the Executive Officer or the District Magistrate, as the case may be, the higher authorities of the Government or in appropriate cases the Courts will be free to take appropriate action in accordance with law. Only on account of such apprehensions the clear mandate of Legislature cannot be declared as directory so as to allow its disregard”.

Even this Court while considering similar issues raised in the case of Meera Devi vs. State of Bihar in C.W.J.C. No. 13995 of 2013 made similar observations and required the Principal Secretary, Panchayati Raj Department to take corrective measures so that the Executive Officers posted in the Panchayat were not allowed to defeat the object of “the Act”. Five years have

passed since the judgment of Meena Devi followed by Meera Devi (Supra) but there has been no let up in the situation. On the contrary instances of present kind are sufficient indication that the willingness of the State to take up corrective measures are clearly lacking. This Court is not ready to accept that even a decade since the enforcement of 'the Act', is not sufficient for these Executive Officers to understand their obligations and the procedural requirements. The intent is clearly to defeat the object and delay the inevitable and the reasons are not hard to find. Framing litigation policy would not serve any purpose, for unless the superiors and the departmental heads feel the urgency and take steps to curb unnecessary litigation, there would be no downfall in the filing of litigations primarily attributed to deliberate action.

For the present, this Court would do no more than to direct the Principal Secretary, Panchayat Raj Department to consider the urgency of the issue and take appropriate corrective action.

The writ petition is disposed of.

(Jyoti Saran, J)

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