

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16906 of 2013

With
Interlocutory Application No.7282 of 2013

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1. Birendra Prasad Son of Harihar Prasad Resident of Village - Brindawan,
P.S. - Shikarpur, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Panchayat Raj, Government of Bihar, Patna
3. The State Election Commission through its Secretary, Patna
4. The District Magistrate, West Champaran, Bettiah
5. The District Panchayat Raj Officer, West Champaran , Bettiah
6. The Sub Divisional Officer, Narkatiaganj
7. The Executive Officer Cum Block Development Officer, Narkatiaganj
8. Shakeel Ahmad Son of Sk. Md. Noorhoda Resident of Vill. - Siyarahi,
P.O. - Gokhula, P.S. - Shikarpur, District - West Champaran at Present
Mukhiya of Gram Panchayat Raj Gokhula
9. Laxmi Devi Wife of Rajiv Kumar Mahto Resident of Vill. - Durgawalia,
P.S. - Shikarpur, District - West Champaran, Ward Member of Gram
Panchayat Raj Gokhula
10. Krishna Ram Son of Shiv Nath Ram Resident of Vill. - Durgawalia, P.S.
- Shikarpur, District - West Champaran, Ward Member of Gram Panchayat
Raj Gokhula
11. Vidya Prasad Son of Late Nathuni Sah Resident of Vill. - Khairwa, P.O.
- Gokhula, P.S. - Shikarpur, District - West Champaran , Ward Member Of
Gram Panchayat Raj Gokhula
12. Pintoo Kumar Son of Thakur Prasad Resident of Vill. + P.O. - Gokhula,
P.S. - Shikarpur, District - West Champaran , Ward Member Of Gram
Panchayat Raj Gokhula
13. Daya Devi Wife of Kishun Mahto Resident of Vill. + P.O. - Gokhula,
P.S. - Shikarpur, District - West Champaran , Ward Member of Gram
Panchayat Raj Gokhula
14. Pradeep Kumar Son of Indramani Mahto Resident of Vill. + P.O. -
Gokhula, P.S. - Shikarpur, District - West Champaran , Ward Member Of
Gram Panchayat Raj Gokhula
15. Punita Devi Wife of Ghutan Paswan Resident of Vill. + P.O. - Gokhula,
P.S. - Shikarpur, District - West Champaran , Ward Member Of Gram
Panchayat Raj Gokhula
16. Salehar Khatoon Wife of Raiful Gaddi Resident of Vill. - Gadiyani,
P.O. - Gokhula, P.S. - Shikarpur, District - West Champaran, Ward Member
Of Gram Panchayat Raj Gokhula
17. Dharam Devi Wife of Late Satan Sah Resident of Vill. - Mathura, P.O. -
Gokhula, P.S. - Shikarpur, District - West Champaran, Ward Member Of
Gram Panchayat Raj Gokhula
18. Sunil Das Son of Dineshar Das Resident of Vill. - Mathura, P.O. -
Gokhula, P.S. - Shikarpur, District - West Champaran, Ward Member Of
Gram Panchayat Raj Gokhula
19. Phulpatia Devi Wife of Bhairav Ram resident of Vill. - Siyarahi, P.O. -
Gokhula, P.S. - Shikarpur, District - West Champaran At Present Mukhiya
Of Gram Panchayat Raj Gokhula
20. Triveni Ram Son of Briksha Ram Resident of Vill. - Siyarahi, P.O. -
Gokhula, P.S. - Shikarpur, District - West Champaran At Present Mukhiya

Of Gram Panchayat Raj Gokhula

21. The Panchayat Secretary, Gram Panchayat Raj Gokhula, P.S. - Shikarpur, District - West Champaran

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Binay Kant Mani Tripathi, Adv.
Mr. Ajay Kumar Mishra, Adv.

For the Respondent-S.E.C.: Mr. Amit Srivastava, Adv.
Mr. Sanjeev Nikesh, Adv.

For State : Mr. Ratna Deep Prasad, A.C. to AAG 11

For respondent Nos.8,9,11 to 16, 18 to 21: Mr. Ram Adya Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 24-08-2015 Heard Mr. Binay Kant Mani Tripathi learned counsel for the petitioner, Mr. Ratan Deep Prasad A.C. to AAG 11 for the State, Mr. Ram Adya Singh learned counsel for the private respondent and Mr. Sanjeev Nikesh learned counsel for the Bihar State Election Commission.

The petitioner happens to be the Up-Mukhiya of Gram Panchayat Raj, Gokhula in the District of West Champaran and is aggrieved by an undated no confidence motion passed against him whereby he has been unseated.

A very short argument has been advanced by Mr. Tripathi to question the ouster of the petitioner and while referring to the proceeding at Annexure-4 which is dated 14.8.2013 he submits that even when the agenda at Serial No.2 refers to a no confidence motion earlier passed against the petitioner but the fact is that no special meeting was held to consider any such motion.

It is the specific case of the petitioner that since after

moving the requisition on 8.7.2013 vide Annexure-1 and until 14.8.2013 no special meeting took place and thus the petitioner has been wrongfully ousted from the post of Up-Mukhiya without holding any special meeting and without passing any no confidence motion.

Although a counter affidavit has been filed by the State as well as by the private respondents but surprisingly even while contesting the stand of the petitioner, in none of the counter affidavits, the motion so passed against the petitioner has been placed on record.

In view of the uncontested circumstances existing, the reference by the members of the Gram Panchayat to a no confidence motion earlier passed against the petitioner in the meeting held on 14.8.2013 present at Annexure-4, is held illegal and unsustainable in law and in absence of any motion so passed against the petitioner he stands confirmed on the post of Up-Mukhiya, Gram Panchayat Raj, Gokhula in the district of West Champaran.

The writ petition is allowed.

The interlocutory application stands disposed of.

(Jyoti Saran, J)

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