

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14219 of 2015

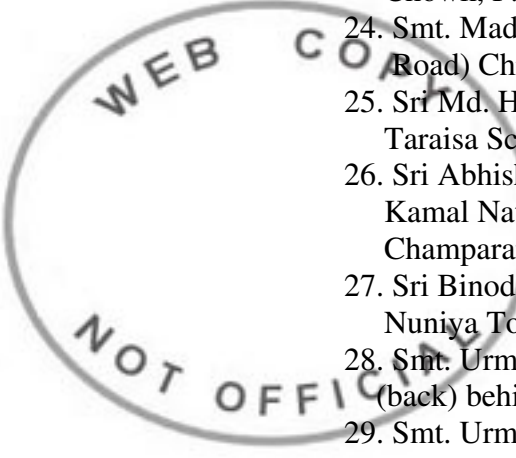
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Surya Kant Mishra son of Late Laxman Mishra, resident of village-Uttarwari Pokhara, Ward No. 4, P.S. and P.O. Bettiah (Town), District-West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development and Housing Department, Bihar, Patna
2. The State Election Commission, Bihar through its Secretary, Bihar, Patna
3. The District Magistrate, West Champaran at Bettiah
4. The Executive Officer, Bettiah Municipal Council Bettiah, West Champaran
5. Mr. Janak Sah, (Chief Councillor Bettiah Municipal Council) son of Narsing Sah resident of Jamadar Tola, P.S. Bettiah Town, District-West Champaran
6. Smt. Anjana Khatoon wife of Md. Ekbal Ansari, resident of Jamadar Tola, Ward No. 01, P.S. Bettiah Town, District-West Champaran
7. Smt. Chitra Devi wife of Shivanand Prasad, resident of Kalibag Chowk, P.S. Bettiah (Town), District-West Champaran
8. Sri Rajendra Yadav son of Ramchandra Yadav, resident of Chhawani, Yadav Tola, P.S. Bettiah (Town), District-West Champaran
9. Sri Dinesh Kumar son of Lal Babu Sah, resident of Uttarbari Pokhara, P.S. Bettiah (Town), District-West Champaran
10. Smt. Kamla Devi wife of Late Tej Pratap Narayan Singh, resident of Mohalla-Nuniya Tola, P.S. Bettiah (Town), District-West Champaran
11. Smt. Pushpanjali Devi wife of Manoj Kumar, resident of Mohalla-Christian Quarter (Sonar Patti) P.S. Bettiah (Town), District-West Champaran
12. Smt. Laxmi Thakur wife of Vijay Ranjan Thakur, resident of Mohalla-Purani Gudri Arya Samaj Road, P.S. Bettiah (Town), District-West Champaran
13. Smt. Johra Khatoon wife of Late Abdul Ganni, resident of near at Harnath School, P.S. Bettiah Town, District-West Champaran
14. Sri Anand Singh son of Late Bhola Singh, resident of Naya Bazar Bulaki Singh Chowk, P.S. Bettiah(Town), District-West Champaran
15. Sri Irshad Akhatar @ Dularse son of Saiyed Samsul Jora, resident of Kalibagh Miskar Toli, P.S. Bettiah (Town), District-West Champaran
16. Sri Ejhar Hussain son of Late Mohammad Ishak resident of Dwar Devi Chowk (Uttari Bhag) Library Cinema P.S. Bettiah (Town), District-West Champaran
17. Sri Anish Akhatar son of late Sadakat Hussain in front of Town Police Station P.S. Bettiah (Town), District-West Champaran
18. Sri Rais Lal Gupta son of Late Nathuni Prasad resident of Indra Chowk, P.S. Bettiah (Town), District-West Champaran
19. Smt. Sakila Khatoon wife of Haffizullah Sah (Back) behind Barimasjid P.S. Bettiah (Town), District-West Champaran
20. Smt. Saroj Devi wife of Dhanjay Tiwary, resident of Kotwali chowk (Mali Tola) P.S. Bettiah (Town), District-West Champaran
21. Sri Kumar Gaurab son of Bhola Prasad Gupta resident of Mohalla behind Yamuna Prasad Dharmshala Ilaram Chowk, P.S. Bettah (Town), District-West Champaran
22. Sri Arman Ahmad son of Fateh Mohammad resident of village Nazani Chowk, P.S. Bettiah (Town), District-West Champaran

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23. Sri Nehal Ahmad son of Fateh Mohammad, resident of Mohalla-Nazani Chowk, P.S. Bettiah (Town), District-West Champaran
 24. Smt. Madhu Devi wife of Binod Rafail resident of mohalla-Girjaghar (Church Road) Christian Quarter P.S. Bettiah (Town), District-West Champaran
 25. Sri Md. Hasnain son of Gama Master resident of Mohalla (Back) behind Sant Taraisa School (Dargah) P.S. Bettiah (Town), District-West Champaran
 26. Sri Abhishek Pandey son of Late Badri Narayan Pandey resident of Mohalla Kamal Nath Nagar Supriya Road, P.S. Bettiah (Town), District-West Champaran
 27. Sri Binod Chauhan son of Late Ramswaroop Prasad resident of Tin Lalten Nuniya Toli, P.S. Bettiah (Town), District-West Champaran
 28. Smt. Urmila Devi wife of Rampujan Prasad resident of Mohalla-Goldar Patti (back) behind Hospital Road, P.S. Bettiah (Town), District-West Champaran
 29. Smt. Urmila Devi wife of Parmod Kumar resident of Mohalla-Post Mortem Hospital Road, P.S. Bettiah (Town), District-West Champaran
 30. Smt. Sabita Devi wife of Vinay Kumar Bagi resident of Jagjiban Nagar Communist Party Chowk, P.S. Bettiah (Town), District-West Champaran
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 33. Smt. Samima Khatoon wife of Jubbair Alam, resident of Baswariya Daroga Tola, P.S. Bettiah (Town), District-West Champaran
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 40. Sri Sushil Kumar Gupta son of Shambhu Gupta resident of village (Back) behind Bipin High School, P.S. Bettiah(Town) District-West Champaran
 41. Smt. Kripa Devi wife of Premchand Sah resident of New bus stand, P.S. Bettiah(Town), District-West Champaran
 42. Smt. Raj Kumari Devi wife of Ramakant Mahto resident of Harivatika Chowk, P.S. Bettiah (Town) District-West Champaran

.... Respondent/s

with

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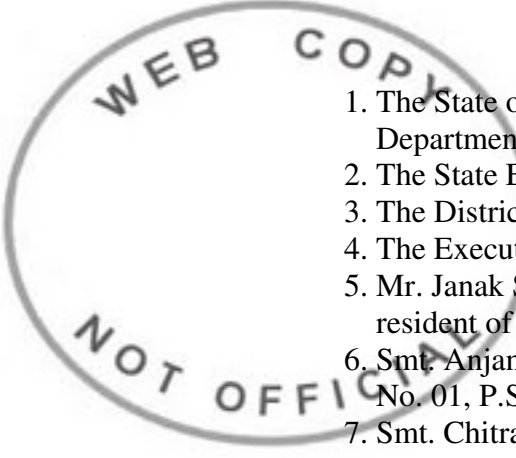
Civil Writ Jurisdiction Case No. 14229 of 2015

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Md. Hasnain son of Gama Master, resident of Dargah Mohallah Ward No. 22, Bettiah, P.O. and P.S. Bettiah (Town), District-West Champaran

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42. Smt. Raj Kumari Devi wife of Ramakant Mahto resident of Harivatika Chowk, P.S. Bettiah (Town) District-West Champaran

.... Respondent/s

Appearance:

(In CWJC No. 14219 of 2015)

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
 For the State : Mr. PURNENDU SINGH, GP-27
 Mr. Rakesh Kumar Sharma, AC to GP-27
 For the State E.C. : Mr. Amit Shrivastava, Advocate
 Mr. Girish Pandey, Advocate

(In CWJC No. 14229 of 2015)

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
 For the State : Mr. NIRBHAY K.SINGH, GP-26
 For the State E.C. : Mr. Amit Shrivastava, Advocate
 Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 16-09-2015

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Heard Mr. Bimlesh Kumar Pandey for the petitioners in the two writ petitions and learned counsel for the State.

The petitioners in the two writ petitions have questioned the outcome of the special meeting held on 10.8.2015 to consider the 'no confidence motion' moved against the Chief Councillor of the Bettiah Nagar Parishad in the District of East Champaran. Whereas the petitioner in CWJC No. 14219 of 2015 happens to be the Presiding Officer of the meeting, the petitioner in the other writ petition is one of the members of the council.

Since both the writ petitions attempt to question the outcome of the proceedings which had to be dropped in absence of a majority hence they have been heard together and with consent of the parties are being disposed of by this common judgment.

The facts are not in dispute. What is being disputed is that the petitioner as the Presiding Officer of the meeting now claims that he was precluded from exercising his right to vote. It is further submitted by the petitioners in the two writ petitions that the two votes so declared invalid is also illegal. The proceedings are on record and is duly signed by the Presiding Officer Surya Kant Mishra.



The proceedings present at Annexure-2 reflect that the meeting was attended by 30 members of the Parishad and when the motion was discussed but no sooner was the motion put to ballots that 8 out of 30 members walked away. Other than the Presiding Officer, there were 21 members left who participated in the ballot and in which 18 votes were cast supporting the 'no confidence motion', one vote was found in favour of the Chief Councillor and two votes were declared invalid as there was no mark thereon. The council consisting of 39 elected members needed 21 votes to constitute a majority but only 18 votes had been cast in support of the 'no confidence motion', hence the motion was declared failed.

The proceedings present at Annexure-2 discusses the entire sequence of events threadbare and is duly signed by the petitioner Surya Kant Mishra as a Presiding Officer with no objections thereon. It is one week thereafter on 17.8.2015 that this Presiding Officer has woken up from slumber to file an objection petition before the District Magistrate pointing out irregularities including that he was precluded from casting his vote. The objection taken is apparently an afterthought and the writ petitions are motivated. The proceedings have been duly signed by the Presiding Officer and which clearly mentions his non-participation as well mentions reasons for declaring

two votes invalid. The Presiding Officer in such undisputed circumstances cannot turn around to question the resolution on any invalidity.

The writ petitions being thoroughly misconceived are dismissed accordingly.

(Jyoti Saran, J)

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