

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4347 of 2014

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Anil Kumar son of Sri Ramchandra Das, resident of Village-Kamaldah,
P.O. Lahbar, P.S. Raiyam, District-Darbhangha

.... 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, Darbhanga, Darbhanga
5. The Sub-Divisional Officer, Darbhanga Sadar, District- Darbhanga
6. The Block Development Officer, Keoti-cum-Executive Officer, Block Panchayat Samiti, Keoti, District - Darbhanga
7. Smt. Sindhu Kumari wife of not known to the Petitioner Presently Up-Pramukh of Block Panchayat Samiti, Keoti, P.O. and P.S. Keoti, District - Darbhanga
8. Smt. Sushila Devi wife of not known to the Petitioner
9. Sri Jagdish Thakur son of not known to the Petitioner
10. Sri Ram Prakash Sah son of not known to the Petitioner
11. Smt. Sharbat Jahan son of not known to the Petitioner
12. Smt. Raushan Ara wife of not known to the Petitioner
13. Smt. Godawari Devi wife of not known to the Petitioner
14. Smt. Gulshan Ara wife of not known to the Petitioner
15. Smt. Shanti Devi wife of not known to the Petitioner
16. Smt. Lalita Devi wife of not known to the Petitioner
17. Smt. Gita Devi wife of not known to the Petitioner
18. Smt. Pramila Devi wife of not known to the Petitioner
19. Smt. Rani Devi wife of not known to the Petitioner
20. Sri Shakir Hussain son of not known to the Petitioner
21. Sri Ramesh Yadav son of not known to the Petitioner
22. Sri Santosh Saday son of not known to the Petitioner
23. Smt. Nilam Devi wife of not known to the Petitioner
24. Sri Abdul Mallick son of not known to the Petitioner
25. Smt. Shail Devi wife of not known to the Petitioner
26. Smt. Mina Devi wife of not known to the Petitioner
27. Sri Sita Kant Jha son of not known to the Petitioner
28. Sri Mohan Jha son of not known to the Petitioner
29. Sri Barun Kumar Mishra son of not known to the petitioner
30. Sri Birju Kumar Baitha son of not known to the petitioner
31. Sri Ajay Kumar Paswan son of not known to the Petitioner
32. Sri Vinay Kumar Yadav son of not known to the petitioner
33. Smt. Mina Devi wife of not known to the petitioner
34. Smt. Dukhani Devi wife of not known to the petitioner
35. Smt. Shiv Kala Devi wife of not known to the Petitioner
36. Sri Krishna Kumar Yadav son of not known to the Petitioner
37. Sri Rajendra Mochi son of not known to the Petitioner
38. Smt. Putul Mishra wife of not known to the petitioner

39. Smt. Shaila Devi wife of not known to the petitioner
 40. Sri Mustkim Khan son of not known to the petitioner
 41. Sri Islam Kuraishi son of not known to the Petitioner

Respondent Nos. 7 to 41 are the Members of the Block Panchayat Samiti, Keoti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Keoti, P.O. and P.S. Keoti, District- Darbhanga

.... Respondent/s

Appearance:

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam, Adv.
 Mr. Ranjeet Choubey, Advocate
 For the S.E.C. : Mr. Amit Shrivastava, Advocate
 Mr. Girish Pandey, Advocate
 For the State : Mr. Nasim Yahya, G.P. 13
 Mr. J.P. Kishore, A.C. to G.P. 13
 For the private respondents: Mr. Bindhyachal Singh, Advocate
 Mr. Satya Prakash, Advocate
 Ms. Smriti Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 05-02-2015 Heard Mr. S.B.K. Manglam, learned counsel for the petitioner, learned counsel for the State and Mr. Bindhyachal Singh appearing for the private respondents including the respondent no. 8 who has since been elected and is presently holding the post of Pramukh, Panchayat Samiti Keoti in the district of Darbhanga in the election held subsequent to the 'no confidence motion' passed against the petitioner.

Facts of the case briefly stated is that a requisition was moved against the petitioner expressing 'no confidence', on 24.1.2014 which also was forwarded by the Executive Officer on 28.1.2014 and objected to by the petitioner who did not proceed to fix the date of special meeting. In between the Executive Officer



considering the circumstances sought guidelines from the District Panchayat Raj Officer who instructed him to proceed expeditiously in the matter considering the mandate of law as provided under Section 44 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act'). Since the petitioner did not proceed with the fixation of the date of special meeting that the requisitionists in a meeting held on 10.2.2014, fixed the special meeting on 18.2.2014 and intimated the Executive Officer-cum-Block Development Officer, Keoti accordingly who circulated a notice on 11.2.2014 intimating all concerned about the special meeting to be held on 18.2.2014, a copy of which is placed at Annexure-6 to the writ petition. In the meeting held on 18.2.2014, the 'no confidence motion' was passed against the petitioner and he was unseated from the post of Pramukh. Following the passing of the motion that an election took place on 21.3.2014 in which the respondent no. 8 has been elected as Pramukh.

The petitioner being aggrieved by the motion has questioned the same on two grounds; namely:

- (a) That the notice convening special meeting dated 11.2.2014 as contained in Annexure-6 is without any reasons / charges as mandated under Sections 44(3) (v) of the Act; and
- (b) There is no clear seven days' notice in between

the notice dated 11.2.2014 and the date of special meeting held on 18.2.2014 as mandated under Section 46(4) of the Act.

Mr. Manglam, learned counsel appearing for the petitioner submits that these two issues raised by the petitioner stands confirmed by the proceedings and which invalidates the motion.

Mr. Bindhyachal Singh contesting vehemently to the argument has submitted that it is a plain case of collusion between the Executive Officer and the present petitioner who has at every stage tried to obstruct the holding of the special meeting and has ultimately succeeded in the same. He submits that the requisitionists have no say on the aspect of issuance of notice under Section 44(3)(v) of the Act and they are entirely at the mercy of the Executive Officer who deliberately commits such violation to benefit an outgoing Pramukh. He submits that such Executive Officers are liable for appropriate proceedings for conscious violation of the statutory provisions. He submits that even when the attention of the Executive Officer was drawn towards the provisions underlying Section 44 of the Act by the District Panchayat Raj Officer who has also passed strictures as to his functioning, yet the Executive Officer-cum-Block

Development Officer, Keoti has not corrected his acts rather has proceeded to perpetuate the illegality which is reflected in the proceedings.

I have heard learned counsel for the parties and I have perused the materials on record. That there is statutory infraction of the procedure is manifest from the discussion made in this order and the Executive Officer-cum-Block Development Officer, Keoti is at the centre of it. Even when this Act came into force in the year 2006, yet the concerned Block Development Officer-cum-Executive Officer have kept themselves in blindfold condition to the statutory obligations and either deliberately or by ignorance of law they have been committing such lapses which ultimately benefits one of the two contesting parties. This issue has been recurrently drawing the attention of this Court and despite the attention of the Principal Secretary, Panchayati Raj Department has been drawn for taking corrective measures but the malady continues. It is for the Principal Secretary, Panchayati Raj Department to take appropriate measures, for such lapses are only burdening this Court with frivolous writ petitions and for which the Executive Officer is entirely accountable.

Having observed as such, this Court in view of the statutory violations would have no other option but to quash the



‘no confidence motion’ passed against the petitioner on 18.2.2014 and as a consequence the petitioner stands restored to his post. Since this Court does not find any infirmity in the requisition dated 24.1.2014 hence the petitioner would fix the date of special meeting for consideration of the ‘no confidence motion’ on or before **11.2.2015**, failing which the requisitionists shall be at liberty to proceed in the matter in accordance with law.

A word of caution for the Block Development Officer-cum-Executive Officer, Keoti, to ensure the compliance of the statutory provisions and not to repeat the lapses as taken note of, for any future lapse by him would be treated to be a contempt of this Court’s order and he shall be proceeded accordingly.

No sooner the petitioner fixes the date of special meeting and communicates the same to the Executive Officer, he shall proceed to notify the date of special meeting adhering strictly to the provisions underlying Sections 44(3)(v) and 46(4) of the Act and the other statutory provisions, failing which he shall make himself liable to contempt.

Since the continuance of the present petitioner on the post of Pramukh would be entirely dependent on the outcome of the special meeting to be so held pursuant to the present order hence the election of respondent no. 8 to the post of Pramukh in

the election held on 21.3.2014 would not be interfered at this stage but shall be kept in abeyance and in case the 'no confidence motion' is passed against the petitioner then the respondent no. 8 shall continue on the post of the Pramukh but in case the 'no confidence motion' fails then the election of the respondent no. 8 shall be deemed to have been set aside.

The writ petition is allowed with the directions aforementioned.

S.Sb/-

(Jyoti Saran, J)

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