

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.641 of 2015

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1. Pratibha Devi wife of Nandlal Baitha, resident of village-Brahmin, Post Office Gram Panchayat, Block and Police Station-Uchaka Gaon, District- Gopalganj at present Pramukh of Uchaka Gaon Panchayat Samiti, District- Gopalganj.
 2. Ramasis Singh son of Late Banka Singh, resident of village- Gram Panchayat and Block-Parsauni Khash, Police Station- Uchaka Gaon, District - Gopalganj at present Up-Pramukh of Uchaka Gaon Panchayat Samiti, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate Gopalganj.
3. The Deputy Development Commissioner Gopalganj.
4. The District Panchayat Officer Gopalganj.
5. The Block Development Officer Uchaka Gaon-cum-Executive Officer Uchaka Gaon Panchayat Samiti, District - Gopalganj.
6. The Secretary State Election Commission Son Bhawan Bir Chand Patel Path, Patna.
7. Sunita Singh
8. Anil Kumar
9. Satyendra Singh
10. Khusbhun Nisha
11. Chhathi Devi
12. Sradha Devi
13. Abdul Rahim Ansari
14. Gopi Chand Bhagat, Parents name not known to the petitioners the Members of Uchaka Gaon Panchayat Samiti, District - Gopalganj.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Jitendra Kumar Roy, Advocate
For the State : Mr. Kumar Alok, SC-8
Dr. Raj Kumar Singh, AC to SC-8
For the Election Commission: Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate
For the private respondents: Mr. Chandan, Advocate
Mr. S.B.K. Manglam, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 29-01-2015 Mr. Jitendra Kumar Roy for the petitioner, Mr. Kumar

Alok, Standing Counsel-8 for the State, learned counsel for the

State Election Commission and Mr. Chandan for the private respondents are present.

The writ petition initially was filed to question the notice bearing Memo No. 6 dated 5.1.2015 whereby the special meeting was notified to be held on 16.1.2015 by the Executive Officer-cum-Block Development Officer, Uchkagaon Panchayat Samiti, District-Gopalganj.

While this matter remained pending for consideration that the 'no confidence motion' was passed and the petitioners stand ousted. The petitioners herein are Pramukh and Up-Pramukh of the said Panchayat Samiti.

The limited issue raised by Mr. Jitendra Kumar Roy to question the proceedings which has ultimately culminated in the 'no confidence motion' passed against these petitioners on 16.1.2015 placed at Annexure-7 to the interlocutory application bearing I.A. No. 728 of 2015 is that the notice convening special meeting is not in accordance with the prescribed procedure provided under Section 44(3)(i) of the Bihar Panchayat Raj Act, 2006. He submits that there is nothing on record to show that the date was fixed by the requisitionists rather in the present case it is the Executive Officer who has fixed the date on the basis of the instructions issued by the District Panchayat Raj Officer,

Gopalganj as contained in Annexure-2. He submits that the action of the Executive Officer is not only influenced by the directive from the supervisory authority but is a usurpation of the jurisdiction which exclusively vests either in the Pramukh or the requisitionists to fix the date of meeting.

I have heard learned counsel for the parties and I have perused the materials on record. That the copy of the requisition was received by the petitioner no. 1 is manifest from her letter addressed to the District Magistrate, Gopalganj present at Annexure-6. Thus the requisition has been validly served. The notice placed at Annexure-1 which is sought to be questioned reflects that on the failure of the petitioner no. 1 to fix the date of special meeting that the requisitionists requested for fixing the date of special meeting and paragraph-3 of the said notice also reflects that the date also was fixed by 1/3rd of the Panchayat Samiti members. The contention of Mr. Roy that although it is stated by the Executive Officer that the date of special meeting was fixed by the requisitionists but the said letter does not reflect as to on what date such decision was taken, in my opinion has no substance and is only taken to be rejected. Once the Pramukh has failed to fix the date of special meeting then the statute enables the requisitionists to fix the date of special meeting and which

admittedly has been fixed on 16.1.2015 by them. In the circumstance any objection as to the date on which such decision was taken, becomes irrelevant. Another aspect which does not entitle the petitioners to raise any objection is that the petitioners have not only participated in the special meeting held on 16.1.2015 but have also contested the allegations set out against them and which was followed by the casting of votes in which the petitioners have been voted out. There is absolutely no infirmity in the entire proceedings warranting interference.

The writ petition is accordingly dismissed.

The interlocutory applications bearing I.A. No. 348 of 2015 and 728 of 2015 stand disposed of.

(Jyoti Saran, J)

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