

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6747 of 2015

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Smt. Chandrakala Devi wife of Sri Yogendra Prasad resident of Ward No. 13, Nagar Panchayat at Sheohar, P.S.- Sheohar, Town & District- Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Urban Development, Government of Bihar, Patna.
2. The State Election Commission, Bihar, through the Chief Election Officer, Sone Bhawan, Patna.
3. The District Magistrate-cum-Collector, Sheohar.
4. The Sub-Divisional Officer, Sheohar.
5. The Circle Officer, Sadar Sheohar, Sheohar.
6. Smt. Neelam Sinha, Ward Parshad, Ward no. 14, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
7. Sri Kaushal Kishore Tiwary, Ward Parshad, Ward no. 1, Vice Chairman, Nagarman, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
8. Sri R.K. Sah, Ward Parshad, Ward no 2, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
9. Smt. Pramila Devi, Ward Parshad, Ward no. 4, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
10. Sri G.N. Singh Prashant, Ward Parshad, Ward no. 15, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
11. Sri Khaheer Mahto, Ward Parshad, Ward no. 6, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
12. Smt. Babli Devi, Ward Parshad, Ward no. 10, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
13. Smt. Shanti Devi, Ward Parshad, Ward no. 9, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
14. Smt. Nazbun Khatoon, Ward Parshad, Ward no. 7, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
15. Smt. Hamila Bibi, Ward Parshad, Ward no. 8, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
16. Sri Girish Raut, Ward Parshad, Ward no. 5, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
17. Smt. Rita Devi, Ward Parshad, Ward no. 11, Nagar Panchayat Sheohar, P.S. & District- Sheohar.
18. The Chief Executive Officer, Nagar Panchayat Sheohar, District- Sheohar.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Mrigank Mouli, Advocate
Mr. Rajesh Mohan, Advocate
For the State E.C. : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate
For the Respondent no. 18: Mr. Devendra Kumar, Advocate

For the State-Respondent: Mr. Gautam Bose, AAG-8
Mr. Rohit Mishra, AC to AAG-8
For the private respondent: Mr. S.B.K. Manglam, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 18-05-2015 Heard Mr. Mrigank Mouli, learned counsel appearing for the petitioner, learned counsel for the State, Mr. S.B.K. Manglam for the private respondents and Mr. Devendra Kumar counsel for the Nagar Panchayat, Sheohar, District-Sheohar and counsel for the Election Commission.

The petitioner is Chairperson of the Nagar Panchayat, Sheohar and questions the 'no confidence motion' passed against her under the provisions of Section 25(4) of the Bihar Municipal Act, 2007 (hereinafter referred to as 'the Act') read with provisions of Bihar Municipal No Confidence Motion Process Rules, 2010 (hereinafter referred to as 'the Motion Rules').

Facts of the case are in a narrow compass and briefly stated is that a 'no confidence motion' was initiated against the petitioner vide requisition placed at Annexure-7 which is dated 15.4.2015. The petitioner complained of illness and through her son got the Panchayat informed about the same on 21.4.2015 vide a letter written by her son Rajesh Kumar addressed to the Executive Officer, Nagar Panchayat which forms part of Annexure-8 series. In support of her illness the petitioner has



enclosed a discharge certificate issued by the Sadar Hospital, Sheohar, a discharge certificate of NMCH dated 22.4.2015 and some documents and whereafter it is stated that she was being treated at the PMCH. Since the petitioner as per the obligation cast under Rule 2(i) of 'the Motion Rules' did not proceed to fix up the date of special meeting that the requisitionists took the responsibility upon themselves and fixed the date of special meeting on 02.5.2015 when the motion was passed against the petitioner and she has been unseated. A copy of the motion is placed on record vide Annexure-11/A to the interlocutory application I.A. No. 3857 of 2015. The motion is stated to be questioned on grounds that the allegations are vague and that despite the information regarding the illness of the petitioner being communicated to the Municipal authorities yet they have proceeded with the motion thus denying the right of the petitioner to contest the proceedings.

I have heard learned counsel for the parties and I have perused the records. Whereas the requisition is dated 15.4.2015 it took 7 days for the son of the petitioner to inform the municipality regarding illness. In fact even when the petitioner was discharged from the NMCH within 7 days of service of the requisition on 22.4.2015 yet she did not choose to fix the date of special meeting

rather represented before the State Election Commission on 24.4.2015 complaining against the initiation of proceedings. Whether or not the same was acted upon, the requisitionists moved in view of the right conferred upon them under Rule 2(iii) of 'the Motion Rules' and in which the motion has been passed. The sequence of events leave no room for confusion that the petitioner was feigning illness and was deliberately trying to avoid the motion. Even after discharge of the petitioner from so called hospitalization on 22.4.2015, she yet did not choose to act upon the requisition rather went on to make a complaint before the State Election Commission. The documents on record are a clear reflection of the fact that the petitioner was evading the motion.

No cause for indulgence is made out. The writ application and the interlocutory application bearing I.A. No. 3857 of 2015 are disposed of.

(Jyoti Saran, J)

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