

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22685 of 2013

With

I.A. No.8079 of 2013

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Bibi Jahanoor, Wife of Manzoor Alam, Resident of Village - Kothiya, P.S- Barari,
District – Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate -Cum - District Officer, Katihar.
3. The District Panchyat Raj Officer, Katihar.
4. The Sub-Divisional Officer, Katihar.
5. Block Development Officer, Barari, District- Katihar.
6. The Up-Pramukh, Barari Panchyat Samiti, Katihar.
7. Kundan Kumar, Member, Barari Panchayat Samiti, Katihar.
8. Nilam Kaur, Member, Barari Panchayat Samiti, District- Katihar.
9. Md. Rakib, Member, Barari Panchayat Samiti, District- Katihar.
10. Uday Kumar Mandal, Member, Barari Panchayat Samiti, District- Katihar.
11. Nirmala Devi, Member, Barari Panchayat Samiti, District- Katihar.
12. Ashok Kumar Choudhary, Member, Barari Panchayat Samiti, District- Katihar.
13. Ranjeet Rishi, Member, Barari Panchayat Samiti, District- Katihar.
14. Rehka Devi, Member, Barari Panchayat Samiti, District- Katihar.
15. Meera Devi, Member, Barari Panchayat Samiti, District- Katihar.
16. Rajendra Kumar Mandal, Member, Barari Panchayat Samiti, District- Katihar.
17. Parwati Devi, Member, Barari Panchayat Samiti, District- Katihar.
18. Krishna Kumar, Member, Barari Panchayat Samiti, District- Katihar.
19. Anjali Devi, Wife of Sri Sita Ram Pandit, Resident of Village - Sujaput, P.S- Basri, District – Katihar.
20. Sabila Khatoon, Wife of Ansur Ali, Resident of Village - Mohna Chandpur, P.S- Barari, District – Katihar.
21. Rajina Khatoon, Wife of Md, Israfil, Resident of Village - Baki Sukhay. P.S- Barari, District- Katihar.
22. Pappu Kumar Sharma, Son of Sri Badri Narain Sharma, Resident of Village - Raunia, P.S- Barari, District – Katihar.
23. Furkun Nisha, Wife of Manjoor Alam, Resident of Village - Choti Rengria, P.S- Barari, District- Katihar.
24. Israt Banu, wife of Md Akhtar Hussain, Resident of Village - Simhara, P.S- Barari, District – Katihar.
25. Nurtun Khatoon, Wife of Md, Yusuf, Resident of Baisago Bidupur, P.S- Barari, District – Katihar.
26. Bechni Khatoon, Wife of Md. Zakir, Resident of Village - Sishia Bandh Tola, P.S- Barari, District – Katihar.
27. Alimuddion, Son of Abdus Sattar, Resident of Village - Karamatpur (Parasia), Resident of P.S- Barari, District – Katihar.
28. Sajjad Ali, son of Makbul Hussain, Resident of Village - Maraghia Dhantola, P.S- Barari, District – Katihar.
29. Analul Haque, Son of Md. Islam, Resident of Village - Ungla Mangratal, P.S- Barari, District – Katihar.
30. Md. Mofezul, son of Late Md. Safuddion, Resident of Village - Islampur, P.S- Barari District – Katihar.
31. Rehana Khatoon, wife of Md. Abutalib, Resident of Village - Badba, P.S- Barari, District – Katihar.

All are Members of Barari Panchayat Samiti, Barari, District – Katihar.

32. Zamil Aktar, Son of Abdul Rahman, Resident of Village - Bhalana Chak Guru Mela, P.S- Barari, District- Katihar.
 33. Bibi Rukhsana Khatoon, Wife of Alaggir, Resident of Village - Janerdhar, P.S- Barari, District – Katihar.
 34. Ajay Kumar Singh, Member, Barari Panchayat Samiti, Barari, District- Katihar.
 35. Pravina Khatoon, Member, Barari Panchayat Samiti, Barari, District- Katihar.
 Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ahtasham Ali Khan
 For the Respondent-State : Mr. Amar Nath Deo, SC-26
 For the Private Respondents : Mr. Yogendra Prasad Sinha
 Mr. Dhananjay Kumar

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-09-2015

Heard Mr. Ahtasham Ali Khan, learned counsel appearing on behalf of the petitioner, Mr. Amar Nath Deo, learned Standing Counsel No.26 for the State and Mr. Yogendra Prasad Sinha and Mr. Dhananjay Kumar for the private respondents.

The petitioner was the Pramukh of Barari Prakhanda Panchayat Samiti in the district of Katihar and is aggrieved by the no confidence motion passed against her on 19.10.2013 under the provisions of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act'). A fresh election of Pramukh has subsequently been held on 16.11.2013 and which is sought to be questioned by I.A. No.8079 of 2013. The fact as it exists presently is that the petitioner stands removed from the post of Pramukh and a fresh Pramukh has been elected.

The requisition is placed at Annexure-1 to the writ petition and is signed by the required number of members



expressing no confidence motion. The petitioner has acted on the requisition and vide Annexure-3 has fixed the date of special meeting on 19.10.2013. On 19.10.2013 the special meeting has taken place in which the charges have been discussed and although the proceedings do reflect a satisfaction shown by a majority of members of the Samiti but the special meeting ended in the ballot which has gone against the petitioner and this has dissatisfied the petitioner since according to the petitioner, once majority of members have expressed satisfaction on the explanation so made by the petitioner to the charges there was no requirement for taking recourse to the ballots.

Mr. Ahtasham Ali Khan, learned counsel appearing for the petitioner has raised the following issues for consideration:

- (a) There is unnecessary intervention by the Sub-Divisional Officer in the proceeding and who has tried to manipulate the result;
- (b) The meeting has been convened at the dictates of the Sub-Divisional Officer vide letter dated 8.10.2013 placed at Annexure-2 directing the Block Development Officer, Barari to take necessary steps for convening the special meeting for considering the no confidence motion;
- (c) Once the charges had been put to discussion and 16 of

the 31 members participating in the meeting, expressed satisfaction to the explanation given by the petitioner, there was no requirement for the casting of ballots as it reflected a decision by a majority in the 33 member Samiti; and

- (d) The decision of the Block Development Officer, Barari to take recourse to the ballot is influenced by the intervention of the Sub-Divisional Officer.

The argument of Mr. Khan has been contested by the counsel for the State and the private respondents. It is submitted that the petitioner acting on the requisition has fixed the date of meeting, participated in the meeting, contested the allegation and which has finally under section 44(3) (vii) of 'the Act' ended with ballots in which the majority of the elected members i.e. 18 out of 33 members Samiti who voted in favour of the no confidence motion and only 12 members casted their vote against the motion. It is thus submitted that in view of the end result of the special meeting, the petitioner can have no grievance.

I have heard learned counsel for the parties and I have perused the records.

The facts are not in dispute and have already been discussed above. The main issue which has aggrieved the petitioner is the unnecessary intervention of the Sub-Divisional Officer. It is

thus to be seen whether the intervention of Sub-Divisional Officer is such as to invalidate the proceedings.

Following the requisition that the petitioner as a Pramukh fixed the date of special meeting on 19.10.2013 and also participated in the same. The petitioner also individually contested the charges. The minutes of the proceeding present at Annexure-4 at paragraph 7 shows that out of 33 elected members 31 participated of whom while 13 opposed her explanation while 16 registered satisfaction on the explanation given by the petitioner and one Pappu Kumar Sharma has not expressed any comment. The minutes further records that at this stage the Block Development Officer sought instruction from the Sub-Divisional Officer who advised that the special meeting be taken to the exercise of ballot. It is following such advise that the discussion ended with ballot which resulted against the petitioner. Now whether in the circumstances discussed, the grievance raised by Mr. Khan regarding unnecessary intervention of the Sub-Divisional Officer or that he exercised influence in the meeting has any legs to stand. In my opinion it is not as such and even in absence of advise by the Sub-Divisional Officer the Block Development Officer as the Executive Officer had to complete the formality by casting of ballots, to attach finality to the motion so moved. In fact the Block Development Officer had no reason to seek any advise from the Sub-Divisional Officer in

view of the clear stipulations provided under section 44(3)(vii) of 'the Act' which specifically mandates that the motion shall be put to vote on the same date after the discussion. Thus even in absence of any such advise, the law mandated that the discussion ends with casting of ballots. Although the minutes of the proceeding does reflect that a majority of members had expressed satisfaction in favour of the petitioner but unfortunately the result of the special meeting is to be guided by the casting of ballot and which has admittedly gone against the petitioner.

In these uncontested circumstances discussed I am not persuaded to interfere with the resolution impugned in the writ petition.

In the result, this writ petition and the interlocutory applications are disposed of.

(Jyoti Saran, J)

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