

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19424 of 2015

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Manoj Kumar

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Adv.

For the Respondent/s : Mr. P.S. Sahay, S.C.31

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 22-12-2015 Heard Mr. Ravi Ranjan, learned counsel for the petitioner
and learned counsel for the State.

The petitioner happens to be the Up-Pramukh of Block Panchayat Samiti, Kalyanpur in the district of Samastipur and is aggrieved by the initiation of a no confidence motion under Section 44(3)(i) of the Bihar Panchayat Raj Act (hereinafter referred to as 'the Act') by the members of the Panchayat Samiti.

Mr. Ranjan learned counsel for the petitioner has submitted that the petitioner has earlier faced two no confidence motions of which the 1st was held on 2.9.2013 and since only 12 members were present in a 43 members samiti hence the motion failed. He submits that one year later a second motion was moved on 29.9.2014 and the date of special meeting was fixed on 7.10.2014 which again was rejected due to lack of majority.

He submits that in the meanwhile amendments has been

introduced in various provisions of the act including Section 44(3) and the amended provisions underlying Section 44(3)(ii) of 'the Act' now provides that a no confidence motion can be brought only once in the whole tenure of a Pramukh/ Up-Pramukh. A copy of the gazette notification to such effect is placed at Annexure-7.

It is next submitted that although Section 44(3)(i) of 'the Act' mandates that the requisition be presented to the Pramukh but on a simple glance to the requisition present at Annexure-3 would manifest that it is not addressed to the Pramukh rather it is addressed to the Executive Officer and thus it is not in tune with the statutory provisions.

Mr. Ranjan questions the initiation of the no confidence motion on following grounds:

(a) the requisition placed at Annexure-3 not being addressed to the Pramukh is not a valid requisition in the eye of law and cannot be acted upon; and

(b) in view of the amended provisions of Section 44(3)(ii) of 'the Act', since the petitioner has already faced two no confidence motions and come out successful, he cannot be subjected to a third motion.

The legal position is very clear and has been appropriately

advanced by Mr. Ranjan.

The State counsel has contested the position by submitting that since the Pramukh or the Executive Officer-cum-Block Development Officer, Kalyanpur has yet not acted on the requisition hence the application is premature at this stage.

Having heard learned counsel for the parties and finding merit in the contentions advanced by Mr. Ranjan, I deem it fit and proper to dispose of the writ petition with the direction to the Pramukh and the Executive Officer-cum-Block Development Officer to consider the issues so raised by the petitioner in the backdrop of Section 44(3)(i) and the amended provisions of Section 44(3)(ii) of 'the Act' and dispose of the matter in accordance with law.

The writ petition stands disposed of.

(Jyoti Saran, J)

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