

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3419 of 2015

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Ravi Ranjan Kumar, son of Sri Mohan Prasad Singh, resident of village + P.O.- Ramchandrapur, P.S. + Block- Piparia, District-Lakhisarai; presently holding the post of Prakahand Pramukh, Panchayat Samittee, Piparia, District-Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
2. The District Magistrate-cum-District Election Officer (Panchayat), Lakhisarai.
3. The Sub-Divisional Officer, Lakhisarai.
4. The District Panchayati Raj officer, Lakhisarai.
5. The Block Development Officer-cum-Executive Officer, Panchayat Samittee, Piparia.
6. The Bihar State Election Commission (Panchayat) having its office at Birchand Patel Path, Sone Bhavan, Patna.
7. Aabha Devi w/o Ashok Singh, resident of village-Karari Piparia, P.O. + P.S. + Block- Piparia, District- Lakhisarai Member, Panchayat Samittee, Gram Panchayat Raj, Piparia, District-Lakhisarai.
8. Dinesh Singh, son of Late Bilayati Singh, resident of village- Rahatpur, P.O. + P.S.-Suryagarha, District- Lakhisarai; Member, Panchayat Samittee, Gram Panchayat Raj, Saidpura, District-Lakhisarai.
9. Shakuntala Devi, wife of Ramanuj Singh, resident of village + P.O.- Ramchandrapur, P.S.-Piparia, District- Lakhisarai; Member, Panchayat Samittee, Gram Panchayat Raj, Ramchandrapur, District-Lakhisarai.
10. Gopal Sharma, son of Late Ram Charitra Sharma, resident of village + P.O.- Olipur, P.S.- Piparia, District- Lakhisarai; Member, Panchayat Samittee, Gram Panchayat Raj, Olipur, District-Lakhisarai.
11. Bharti Devi, wife of Bharat Sao, resident of village- Morwaria, P.S.-Piparia, P.O.-Rehua, District-Lakhisarai; Member, Panchayat Samittee, Gram Panchayat Raj, Mohanpur, District-Lakhisarai.
12. Sanjay Manjhi, son of Late Ram Snehi Manjhi, resident of village-Belthua Musahri, P.O.- Pawai, P.S.- Suryagarha, District-Lakhisarai; Member, Panchayat Samittee, Gram Panchayat Raj, Saidpura, Block- Piparia, District-Lakhisarai.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Arun Kumar, Advocate
For the State : Mr. Mithilesh Kumar Pathak, SC-7
Mr. Anuj Kumar, A.C. to SC-7
For the State E.C. : Mr. Amit Shrivastava, Advocate
Mr. Girish Pandey, Advocate
For the private respondent: Mr. Ravi Bhushan Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-08-2015

Heard Mr. Arun Kumar, learned counsel appearing on
behalf of the petitioner, Mr. Anuj Kumar, Assisting Counsel to S.C.-7

for the State, Mr. Girish Pandey, learned counsel for the State Election Commission and Mr. Ravi Bhushan Singh for the private respondents.

The petitioner is aggrieved by the 'no confidence motion' passed against him on 02.3.2015 whereby the petitioner has been ousted from the post of Pramukh, Panchayat Samiti, Piparia in the district of Lakhisarai.

Facts of the case briefly stated is that a requisition was moved against the petitioner expressing no confidence in him and a copy of the same is placed at Annexure-1 to the writ petition. The records reflect that since the petitioner did not fix the date of special meeting that this responsibility was assumed by the Up-Pramukh who fixed the date of special meeting on 02.3.2015 and which was circulated by the Executive Officer-cum- Block Development Officer, Piparia in the district of Lakhisarai vide Memo No. 168 dated 25.2.2015 placed at Annexure-2. The special meeting was held on 02.3.2015 and in which the 'no confidence motion' was passed against the petitioner. The copy of the proceedings has been placed vide Annexure-3 to I.A. No. 1951 of 2015. Although the writ petition was filed questioning the requisition moved for the motion as well as the format of the notice issued by the Executive Officer in not complying with the statutory provisions of Section 44(3)(i) and 44(3)(v) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') but since in the meanwhile the motion was passed that it

has been sought to be questioned by way of interlocutory application and which prayer is allowed and I.A. No. 1951 of 2015 stands allowed.

Although Mr. Arun Kumar has endeavoured to question the proceedings on several issues including the issue that the requisition was not presented to the petitioner in the manner prescribed under Section 44(3)(i) of 'the Act' but considering the stage at which the matter presently rests, this Court would not enter into such issues for there is a contest on the issue whether the petitioner was bypassed or he did not choose to accept the requisition and when it was presented before the Executive Officer who communicated the same to the petitioner. Even otherwise since the requisition suffers from no other infirmity and now is well within the knowledge of the petitioner, this Court would not enter into issues of academic interest.

Reverting to the issue of invalid notice, although the motion has been passed against the petitioner but in view of the incurable defect in the notice circulated by the Block Development Officer-cum-Executive Officer of the Panchayat Samiti bearing Memo No. 168 dated 25.2.2015 placed at Annexure-2 which apparently does not fulfill the requirements of Section 44(3)(v) of 'the Act' for it accompanies no reasons / charges, the notice is held invalid and as a consequence the motion so passed against the petitioner on 02.3.2015 also stands invalidated. Accordingly the notice present at

Annexure-2 and the motion passed in the proceedings held on 02.3.2015 present at Annexure-3 of the interlocutory application are set aside. Since this Court has not found any infirmity in the requisition, the petitioner is put under obligation to fix the date of special meeting by following the statutory provisions of 'the Act' and since the parties are represented here through their respective counsel, the petitioner would be fixing the date of special meeting on or before **07.9.2015**, failing which the requisitionists shall be at liberty to fix the same in terms of the provisions underlying Section 44(3)(i) of 'the Act' and proceed in the matter in accordance with law. No sooner the date of special meeting is fixed by the Pramukh petitioner or the requisitionists as the case may be, the Block Development Officer-cum-Executive Officer of Panchayat Samiti Piparia would circulate the same by following the provisions of Section 44(3)(v) of 'the Act' and if the Executive Officer would fail in complying with the statutory requirements this time while circulating the notice and fails to mention the reasons / charges on which the motion is moved, it would be treated as contempt of the order of this Court.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

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