

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18753 of 2014

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Ajay Prasad @ Ajay Paswan, son of Late Ram Avatar Ram, resident of Village-
Rupsagar Bigha, P.O. Beudsel, P.S. Mehandia, District- Arwal, Panchayat Member.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Panchayat Raj, Government of Bihar.
3. The Director, Panchayat Raj, Government of Bihar.
4. The District Magistrate, Arwal.
5. The Sub-Divisional Officer, Arwal.
6. The Block Development Officer, Kaler- cum- the Executive Officer, Block Panchayat Samiti, Kaler, District- Arwal.
7. Kasi Ram, son of Sri Ramdew Ram, resident of village Hardiyan P.S. Mehandia, District- Arwal, the Parkhand Pramukh, Kaler.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Sinha

For the Respondent/s : Mr. Nishant Kumar Jha, AC to GP-21

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-02-2015

Heard Mr. Arun Kumar Sinha, learned counsel
appearing on behalf of the petitioner and Mr. Nishant Kumar Jha,
learned Assisting Counsel to Government Pleader No.21 for the
State.

It is the grievance of the petitioner that the Pramukh of
Block Panchayat Samiti, Kaler in the district of Arwal is not
convening the special meeting pursuant to the requisition filed by
the requisitionists on 3.9.2014 under section 44(3) (i) of the Bihar
Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act'), a
copy of which is placed at Annexure-1 to the writ petition.



Although the provision underlying section 44(3) (i) of 'the Act' vests legal right in the requisitionists to proceed in the matter in case the Pramukh does not fix the date of special meeting within the period prescribed under section 44(3) read with section 46(4) of 'the Act' but contesting the claim of the petitioner a counter affidavit has been filed by the Executive Officer of the Panchayat Samiti, respondent no.6 and in paragraphs 6 and 7 it has been stated that the present Pramukh was removed from his post by a **no confidence motion** passed on 23.7.2013 but he got re-elected subsequently on 14.8.2013. Referring to the stand of the Executive Officer it is submitted by Mr. Jha, that since the respondent no.7 stands re-elected as a Pramukh on 14.8.2013 hence he stands protected under section 44(3)(ii) of 'the Act' inasmuch as a **no confidence motion** cannot be moved within first two years of the tenure. He submits that since the re-election has taken place on 14.8.2013, the requisition filed on 3.9.2014 i.e. within one year of the re-election as well as of his current tenure as Pramukh it did not require to be processed any further.

Having heard learned counsel for the parties and taking note of the circumstances existing as well as the statutory provisions underlying 'the Act' this Court is of the opinion that the **no confidence motion** so moved by the petitioner along with other

requisitionists within one year of the current tenure of the Pramukh who got re-elected on 14.8.2013 is without sanction of law and has rightly not been processed.

For the reasons aforementioned, the writ petition is disposed of.

(Jyoti Saran, J)

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