

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4336 of 2015

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Manju Devi wife of Sri Kamlesh Kumar Gupta, resident of village and post-
Kesath, P.S. Nawanagar, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna
2. The Director, Panchayati Raj, Department of Panchayati Raj, Govt. of Bihar, Patna
3. The Collector-cum-District Magistrate, District- Buxar
4. The District Panchayat Raj Officer, Buxar, District- Buxar
5. The Block Development Officer, Kesath, District- Buxar
6. Mr. Birendra Prasad Gupta son of not known, member of Panchayat Samittee, (BDC), Region No. 01, Village- Rampur, Block- Kesath, P.S.- Nawanagar, District- Buxar
7. Mr. Kamlesh Kumar son of not known, Member of Panchayat Samittee, (BDC), Region No. 02, Village- Kesath, Block- Kesath, P.S.- Nawanagar, District- Buxar
8. Pappu Kumar Singh son of not known, Member of Panchayat Samittee, (BDC), Region No. 04, Village- Katikanar, Block- Kesath, P.S.- Nawanagar, District- Buxar

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Nityanand Mishra, Advocate

For the Respondent/s : Mr. Ritesh Kumar, SC-33

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 17-08-2015 Heard Mr. Nityanand Mishra learned counsel for the petitioner, Mr. Ritesh Kumar, learned Standing Counsel-33 and Mr. Avinash Kumar Singh, learned counsel appearing on behalf of the private respondents.

The writ petition was filed questioning the requisition dated 03.3.2015, a copy of which is placed at Annexure-1 to the writ petition *inter alia* on grounds that it was addressed to the



Block Development Officer as well as on grounds that the notice convening special meeting circulated vide Annexure-3 to the interlocutory application do not accompany the reasons and charges as mandated under Section 44(3)(v) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act').

This matter was heard on 23.3.2015 and finding substance in the argument of the petitioner that notice was issued to the private respondents who have since appeared through counsel and the operation of the notice dated 18.3.2015 whereunder the date of special meeting for consideration of the 'no confidence motion' was fixed on 26.3.2015, was stayed.

Counter affidavits have been filed by the State and the private respondents respectively and each of them have enclosed a copy of the requisition which is in fact addressed to the Pramukh and a copy of which is placed at Annexure-A to the respective counter affidavit of the respondents.

It is the contention of learned counsel for the respondents that the petitioner has not approached the Court with clean hands inasmuch as the requisition dated 03.3.2015, a copy of which is enclosed at Annexure-A to the respective counter affidavits of the State as well as the private respondents was indeed served in the office of the Pramukh on 03.3.2015 with a



copy marked to the Executive Officer. It is the contention of the official respondents that not stopping at that, it was also tried to be served on the Pramukh but was not accepted for one reason or the other and it is in these circumstances that the requisitionists proceeded to fix the date of special meeting which was circulated vide letter dated 18.3.2015 placed at Annexure-3 to the writ petition. Apparently the notice dated 18.3.2015 of the Executive Officer is in contravention of Section 44(3)(v) of 'the Act' for it accompanies no reason or charge as mandated in law.

For the said reasons, the notice dated 18.3.2015 is held unsustainable and is accordingly set aside. This Court, however, does not find any reasons to interfere with the requisition appended at Annexure-A to the counter affidavit of the State as well as the private respondents and in view of the statements made in the respective counter affidavits regarding not only service thereof in the office of the Pramukh but also through the Block Development Officer, in my opinion, there cannot be any reason for the petitioner for raising any grievance thereto.

In the circumstances discussed hereinabove and this Court finding no reasons to interfere with the requisition moved against the petitioner, would direct the Pramukh to discharge the obligation cast upon him under the provisions of Section 44(3) (i)

of 'the Act' and fix a date of special meeting on or before 24.8.2015, failing which the requisitionists shall be at liberty to fix the same by virtue of the powers conferred upon them under 'the Act' and whereafter the Executive Officer-cum-Block Development Officer, Kesath in the District of Buxar would proceed to circulate the notice fixing the date of special meeting and this time he shall ensure that the notice of special meeting is in terms of the statutory provisions underlying Section 44(3)(v) of 'the Act' and the reasons and charges on which the motion has been moved are mentioned in the notice failing which it would be treated as contempt of this order.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

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