

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.613 of 2015

With

I.A. No.438 of 2015

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Madhubala Singh, wife of Sri Chandra Shekhar Prasad Singh, resident of Village, P.O. and P.S.- Paharpur, District- East Champaran at Motihari, Pramukh of Block Panchayat Samiti, Paharpur, P.O. & P.S.- Paharpur, District- East Champaran at Motihari.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, East Champaran at Motihari, District- East Champaran at Motihari.
5. The Sub-Divisional Officer, Areraj, District- East Champaran at Motihari.
6. The Block Development Officer, Paharpur –cum- Executive Officer, Block Panchayat Samiti, Paharpur, District- East Champaran at Motihari.
7. Smt. Sangeeta Devi, wife of Sri Prem Gupta, Up- Pramukh of Block Panchayat Samiti, Paharpur, P.O. & P.S.- Paharpur, District- East Champaran at Motihari.
8. Sri Pappu Singh, son of not known to the petitioner.
9. Smt. Mithilesh Devi, wife of not known to the petitioner.
10. Sri Bachchan Das, son of not known to the petitioner.
11. Sri Ravi Kant Singh, son of not known to the petitioner.
12. Sri Tej Narayan Prasad, son of not known to the petitioner.
13. Sri Sudama Prasad, son of not known to the petitioner.
14. Smt. Devanti Devi, wife of not known to the petitioner.
15. Smt. Usha Devi, wife of not known to the petitioner.
16. Smt. Aasani Devi, wife of not known to the petitioner.
17. Smt. Mariyam Khatoon, wife of not known to the petitioner.
18. Sri Lakhan Singh, son of not known to the petitioner.
19. Sri Abhishek Kumar, son of not known to the petitioner.
20. Sri Ramayan Ram, son of not known to the petitioner.
21. Sri Shivdeni Hajara, son of not known to the petitioner.
22. Sri Noorul Imam, son of not known to the petitioner.
23. Sri Iqbal Hussain, son of not known to the petitioner.
24. Smt. Sita Devi, wife of not known to the petitioner.
25. Smt. Sayeeda Khatoon, wife of not known to the petitioner.
26. Smt. Kalwati Devi, wife of not known to the petitioner.

Respondent nos.7 to 26 are the elected Members of the Block Panchayat Samiti, Paharpur through the Block Development Officer –cum- Executive Officer, Block Panchayat Samiti, Paharpur, P.O. & P.S.- Paharpur, District- East Champaran at Motihari.

27. The State Election Commission (Panchayat) through the State Election Commissioner, Sone Bhawan, Birchand Patel Path, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam
Mr. Chandan

For the Respondent-State : Mr. Purnendu Singh, GP-27
For the Requisitionists : Mr. Bindhyachal Singh
For the State Election Commission: Mr.. Girish Pandey

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-01-2015

Although this matter is listed under the heading 'For orders on petitions' but with the consent of the parties it has been taken up with a view to its final disposal at this stage itself by way of this judgment.

This matter was taken up yesterday for consideration of the prayer made by the petitioner on the issue of grant of interim relief when Mr. S.B.K. Manglam appeared for the petitioner, the State was represented by Mr. Purnendu Singh, learned Government Pleader No.27, the State Election Commission was represented by Mr. Girish Pandey and Mr. Bindhyachal Singh registered his appearance for respondent no.7 but submitted that he would be registering appearance for other requisitionists that the matter was passed over and has been taken up today when Mr. Bindhyachal Singh submits that he is filing Vakalatnama for the remaining requisitionists.

The issue raised in the writ petition is limited to the infirmity in the requisition addressed to the petitioner who happens to be the Pramukh of Panchayat Samiti, Paharpur, District- East Champaran. According to the petitioner, the requisition is not in tune with the provisions underlying section 44(3) (i) of the Bihar



Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') inasmuch as though addressed to the Pramukh, it is routed through the Executive Officer which is not in tune with the mandate of law. It is submitted that although the statutory provisions while requiring presentation of the requisition to the Pramukh also casts an obligation of service of a copy of the requisition on the Executive Officer of the Panchayat Samiti but the same does not mean that the requisition has to be routed through the Executive Officer and which fact is also manifest from the copy of the requisition placed at Annexure-1.

Mr. Bindhyachal Singh, learned counsel for the requisitionists while admitting to the infirmity in the requisition submits that the requisitionists may be permitted to serve a fresh requisition in its proper form on the Pramukh. He submits that a fresh requisition would be served on the Pramukh by Friday, i.e. 23.1.2015. Learned counsel for the petitioner submits that the same would be accepted and whereafter the petitioner would proceed to fix the date of special meeting.

Since the infirmity pointed out in the requisition stands accepted and a consensus has been reached between the Pramukh and the requisitionists that a fresh requisition would be served on the petitioner by 23.1.2015 which would be received by her and whereafter she would proceed to fix the date of special meeting the

requisition placed at Annexure-1 stands set aside. In case the petitioner fails in her undertaking to receive the requisition and to fix the date of special meeting then the requisitionists shall be at liberty to proceed in the matter in terms of the statutory provisions for effecting the service of requisition as well as fixing the date of special meeting for moving the no confidence motion.

The writ petition is allowed with the direction/liberty aforementioned. The interlocutory application stands disposed of.

(Jyoti Saran, J)

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