

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.168 of 2015

IN

Civil Writ Jurisdiction Case No. 1865 of 2014

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Sanjita Devi Wife of Akhileshwar Kumar Debey, R/o Village- Madhubani Dubey Tola, P.S.- Sangrampur, District- East Champaran.

.... Petitioner/Appellant

Versus

1. The State of Bihar through Principal Secretary, Department of Panchayat Raj, Government of Bihar, Patna.
2. The Director, Panchayat Raj, Government of Bihar, Patna.
3. The District Magistrate, East Champaran, Motihari.
4. The SDO, Areraj Sub- Division, Areraj, East Champaran.
5. The BDO, Sangrampur Block-cum-Executive Officer, Sangrampur Panchayat Samiti, Sangrampur, East Champaran.

..... Respondent 1st Set.

6. Md. Nurrullah, Son of Jauwad Hussain, Resident of Village and P.S. - Sangrampur, District- East Champaran.
7. Ram Pari Devi, Wife of Nawal Singh, Resident of village + P.O. Madhubani, P.S.- Sangrampur, District- East Champaran.
8. Phul Kumari Devi, Wife of Laxman Mishra, Resident of North Bhawanipur, P.S.- Sangrampur, District- East Champaran.
9. Buni Sahani, Wife of Late Kari Sahani, Resident of North Jariyariyaria, P.S.- Sangrampur, District- East Champaran.
10. Jitendra Singh, Son of Jhulfi Singh, Resident of Parsauna, P.S.- Sangrampur, District- East Champaran.
11. Aditya Kumar Pandey, Son of Nathuni Pandey, Ghushiya, P.S.- Sangrampur, District- East Champaran.
12. Bhutai Yadav, Son of Ratan Yadav, Resident of Sangrampur, Maraiya, P.S.- Sangrampur, District- East Champaran.
13. Ragani Devi, Wife of Bigu Sah, Resident of Uttari Bhawanipur, P.S.- Sangrampur, District- East Champaran.
14. Kumar Dhananjay, Son of Narendra Mishra, Resident of Mishra Gram, P.S.- Sangrampur, District- East Champaran.
15. Yougendra Ram, Son of Vriksha Ram, Resident of Village- Dumariya, P.S.- Dumariya Ghat, District- East Champaran.
16. Bacchu Rai, Son of Asha Rai, Resident of Sangrampur Mathis, P.S.- Sangrampur, District- East Champaran.
17. Sanju Devi, Wife of Rinku Thakur, Resident of Shayampyur, P.S.- Sangrampur, District- East Champaran.
18. Chitranjan Sharma, Son of Ramadhar Sharma, Resident of Bharwaliya, P.S.- Sangrampur, District- East Champaran.
19. Binod Kumar Singh, Son of Late Mahamaya Singh, Resident of Village- Sangrampur Pachariya, P.S.- Sangrampur, District- East Champaran.
20. Manju Choudhary, Wife of Wakil Sahani, Resident of paschimi Madhubani, P.S.- Sangrampur, District- East Champaran.
21. Babita Devi Wife of Pahari Sah, Resident of Village- Dakchani Bhawanipur, P.S.- Sangrampur, District- East Champaran.
22. Pratibha Devi Wife of Surendra Baitha, Resident of Village- Jariharia Tola

Rajpur, P.S.-Sangrampur, District- East Champaran.

23. Nirmala Devi W/o Pramod Giri, Resident of East Madhubani, P.S.-
Sangrampur, District- East Champaran.

.... Respondents 2nd/Respondents 2nd Set

Appearance :

For the Appellant/s : Shri S.B.K. Manglam, Adv.

Shri Ravi Ranjan,

For the Respondent/s : Shri Anil Kumar, A.C. to SC10

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 15-04-2015

The appellant was elected as Pramukh of Sangrampur Panchayat Samiti, District-East Champaran in the year 2011. 1/3rd members of the Panchayat Samiti signed a notice dated 5.7.2013 and made request to convene the meeting, to express want of confidence in the appellant. While stating certain reasons, the Block Development Officer i.e. the executive authority, convened a meeting on 18.7.2013 and the no confidence motion was carried out. Challenging the same, the appellant herein filed C.W.J.C. No.13540/13. The plea was that the copy of notice was not served upon her and the proceedings were conducted by the Block Development Officer i.e. 5th respondent, straightaway. During the pendency of the writ petition, elections were also held and another person was elected in the place of the appellant.



The writ petition was allowed by this Court on 3.9.2013. The contention of the appellant that the convening of the meeting was contrary to Section -44(3) of the Bihar Panchayat Raj Act, 2006 was accepted. The result of the no confidence motion as well as the consequential election were set aside. However, a direction was issued to the Block Development Officer to convene a meeting to take up the motion, on a particular date.

The appellant felt aggrieved by the direction issued by the learned single Judge to take up the motion of no confidence on a particular date and filed L.P.A. No.1347/13. A Division Bench of this Court allowed the L.P.A. and held that the fixation of a date for taking up the motion straightaway by this Court is not correct. Instead, no direction was issued to the 5th respondent to exercise his power under Section-44(3) of the Act and take up necessary steps immediately.

Stating it to be in compliance with the direction issued by this Court in L.P.A. No.1347/13, the 5th respondent convened a meeting of the Panchayat Samiti on 9.1.2014 and the no confidence motion was carried out. Challenging the same, the appellant filed C.W.J.C. No.1865/14. She pleaded that the 5th respondent could

have taken further steps in the matter if only there was a fresh requisition and not on the basis of the requisition dated 5.11.2013. The Learned Single Judge did not accept the contention and dismissed the writ petition. Hence, this Letters Patent Appeal.

Heard Shri S.B.K. Manglam and Shri Ravi Ranjan, learned counsel for the appellant, and Shri Anil Kumar, learned counsel for the respondents.

The facts that gave rise to the filing of Appeal have already been mentioned in the preceding paragraphs. In the first round of litigation, the result of the no confidence as well as consequential election were set aside. However, the notice issued to express want of confidence, was kept intact. Learned Single Judge has straightaway fixed a date for taking up the motion of no confidence. That was not approved by the Division Bench and instead the matter was left to the discretion of the 5th respondent. The relevant portion reads as under:-

“We, therefore, hold that the order under appeal is not sustainable to the extent that it fixes the date and time of the meeting. The Executive Officer shall, upon receipt of a copy of the present order, proceed in accordance with law to exercise his statutory powers under Section-44(3) of the Act forthwith without any delay so that the No Confidence Motion can be tabled at the earliest opportunity in accordance with law.

Insofar as the fresh elections held contrary to the interim order dated 24.10.2013 is concerned,



we hold that irrespective of the question that whether the order was communicated or not communicated with regard to which there is a divergence of opinion between the learned counsel, the fact of the matter is that any act done contrary to the specific direction of the Court is a complete nullity. Shri Nawal Kishore Prasad Singh (supra) relied upon on behalf of the appellant is a complete answer to the invalidity of such an election held in teeth of an order of the Court being a complete nullity. We therefore hold that the fresh election held cannot be relevant for any purposes whatsoever and declare it to be a nullity. We also consider it proper to clarify at this stage that till the No Confidence Motion is tabled in accordance with law the appellant shall exercise only routine powers.”

From perusal of the underlined portion, it is clear that their Lordships did not interfere with the notice dated 5.7.2013 nor did they frustrate the further proceedings in relation thereto. The only modification was that it was left to the discretion of the 5th respondent to fix a date in this behalf. The emphasis that the matter shall be taken up forthwith, without any further delay, would clearly demonstrate that it was referable to the notice dated 5.7.2013. Had it been a case where their Lordships wanted that further steps can be taken if only a fresh notice, expressing want of confidence were issued, the text of the order would have been certainly different. Further, the appellant did not feel aggrieved by the observation made by the Division Bench.

The 5th respondent has duly followed the direction

dated 3.9.2013 issued in the writ petition and fixed a date for motion of no confidence. Once that was carried out, the appellant cannot have any objection to it. The learned single Judge took note of all these events and developments and dismissed the writ petition. We do not find any basis to interfere with the same.

The writ appeal is, accordingly, dismissed.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

K.C.jha/-

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