

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14953 of 2014

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Akhilesh Jha S/o Sri Ramesh Jha, resident of Village- Basopatti, P.O. AND P.S.-
Basopatti, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Panchayati Raj Vibhag, Bihar,
Patna
 2. Collector, Madhubani
 3. Executive Officer-cum-Block Development Officer, Basopatti, Madhubani
 4. Birendra Yadav, Prakhanda Pramukh, Basopatti Block, Madhubani
 5. Shatryghna Ram, Panchayat Samiti, Area No. 6
 6. Nilam Devi, Panchayat Samiti, Area No. 22
 7. Pushpua Devi, Panchayat Samiti, Area No. 14
 8. Soni Devi, Panchayat Samiti, Area No. 08
 9. Sudhira Devi, Panchayat Samiti, Area No. 17
 10. Yogendra Sah, Panchayat Samiti, Area No. 18
 11. Arun Kumar Rai Panchayat Samiti, Area No. 12
 12. Lalit Kumar Mandal, Panchayat Samiti, Area No. 14
- All members of Basopatti Gram Panchayat Raj Basopatti, Madhubani

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 17297 of 2014

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Birendra Kumar Jha S/o Late Shyam Sunder Jha, resident of Village Kauwaha, P.O.
Jaso, P.S. Basopatti, District Madhubani, the Panchayat Samiti Member of Block
Panchayat Samiti, Basopatti, District Madhubani.

.... 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, Madhubani, District Madhubani.
5. The Sub Divisional Officer, Madhubani, District Madhubani.
6. The Block Development Officer, Basopatti-cum-Executive Officer, Block
Panchayat Samiti, Basopatti, P.O. and P.S. Basopatti, District Madhubani.
7. Sri Birendra Kumar Yadav S/o not known to the petitioner Presently Pramukh of
Block Panchayat Samiti, Basopatti, P.O. and P.S. Basopatti, District Madhubani.
8. Sri Ajay Kumar Chaudhary S/o not known to the petitioner Presently Up-
Pramukh of Block Panchayat Samiti, Basopatti, P.O. and P.S. Basopatti, District
Madhubani.

.... Respondent/s

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Appearance:

(In CWJC No. 14953 of 2014)

For the Petitioner/s : Mr. Banwari Sharma, Advocate
 Mr. Sunil Kumar, Advocate
 For the Respondents : Mr. Shri Prakash Srivastava, Advocate
 Mr. Gagan Deo Yadav, Advocate
 Mr. Sanjay Kumar, Advocate
 Mr. Vinod Kumar, Advocate
 For the State : Mr. V. Prasad, GP-18

(In CWJC No. 17297 of 2014)

For the Petitioner/s : Mr. S.B.K. Manglam, Advocate
 Mr. Chandan, Advocate
 For the Respondent/s : Mr. Kumar Manish, SC-21

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 01-10-2015

Heard Mr. Banwari Sharma and Mr. S.B.K. Manglam,
 learned counsel for the petitioner(s) in the respective writ petitions,
 learned counsel for the State and learned counsel for the private
 respondents.

The two writ petitions were filed charging the Pramukh of
 the Panchayat Samiti Basopatti in the district of Madhubani of stage
 managing the no confidence motion, to get away therewith.
 According to the two petitioners the Pramukh himself has engineered
 the motion whereunder a requisition was moved by eight persons
 expressing no confidence and on the scheduled date fixed for special
 meeting i.e. 30.8.2014, only six of the eight requisitionists stood up to
 support the motion and the motion failed.

Although there has been extensive arguments on behalf of
 the petitioners by Mr. Sharma and Mr. Manglam to hold the Pramukh



in the dock for stage managing the motion but the arguments have mainly centered around the issue of non-service of notice to submit that since the notice itself was never served on the members of the Panchayat Samiti hence they had no opportunity to participate therein and as a result the Pramukh has got away with the failed motion. The official respondents as well as the private respondents have filed their respective affidavits. Counter affidavit on behalf of the State specifically mentions that notices were served under both process i.e. under registered post as well as by effecting personal service. Although the counter affidavit filed in CWJC No. 14953 of 2014 by the Executive Officer while making such statement does not disclose the materials but the materials are present in the counter affidavit filed in CWJC No. 17297 of 2014 which manifestly shows that notice was personally served on the members much before the date of meeting and yet there was no participation on their behalf to support the motion. Even before this Court it is only the two writ petitioners who have come to question the motion alleging mala fides on the Pramukh.

In consideration of the circumstances in its totality, I am of the opinion that the failed motion was a result of its failure to obtain support from the majority of the members. The very fact that despite service of notice to the members of the Panchayat Samiti, the

motion did not even have the support of majority though notice was served upon them, the motion could not have been passed. The petitioners may have their reasons for grievance but in consideration of the matter as reflecting from the records, it does not warrant indulgence.

The writ petitions are disposed of.

(Jyoti Saran, J)

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