

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.202 of 2015

I.A. No.60 of 2015

With

I.A. No.89 of 2015

With

I.A. No.494 of 2014

With

I.A. No.1121 of 2015

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Amit Kumar Singh, Son of Late Suresh Singh, resident of Village - Badaun,
Police Station - Nabi Nagar, District - Aurangabad, at present Up-Pramukh
of Nabi Nagar Block Panchayat Samiti, District - Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar Patna.
3. The Director Panchayati Raj, Government of Bihar, Patna.
4. The District Magistrate, Aurangabad.
5. The Sub-Divisional Officer, Aurangabad.
6. The District Panchayat Raj Officer, Aurangabad.
7. The Block Development Officer, Nabi Nagar -cum- Executive Officer, Block Panchayat Samiti, Nabi Nagar, District - Aurangabad.
8. Smt. Chinta Devi, wife of Sri Dilip Kumar, resident of Village - Mahsu, Police Station - Nabi Nagar, District - Aurangabad, at present Pramukh, Nabi Nagar Block Panchayat Samiti, District - Aurangabad.
9. Smt. Sunita Devi, Wife of not known to the petitioner.
10. Smt. Chandrawati Devi, Wife of not known to the petitioner.
11. Smt. Sangeet Devi, Wife of not known to the petitioner.
12. Smt. Vineeta Devi, Wife of not known to the petitioner.
13. Smt. Dhiraj Devi, Wife of not known to the petitioner.
14. Smt. Rakha Devi, Wife of not known to the petitioner.
15. Smt. Anita Devi, Wife of not known to the petitioner.
16. Smt. Shanti Devi, Wife of not known to the petitioner.
17. Smt. Patiya Kunwar, Wife of not known to the petitioner.
18. Smt. Anita Devi, Wife of not known to the petitioner.
19. Smt. Mamta Devi, Wife of not known to the petitioner.
20. Smt. Bimali Devi, Wife of not known to the petitioner.
21. Smt. Sakila Devi, Wife of not known to the petitioner.
22. Smt. Urmila Devi, Wife of not known to the petitioner.
23. Sri Damodar Singh, son of not known to the petitioner.
24. Sri Sanjay Singh, son of not known to the petitioner.
25. Sri Gopal Singh, son of not known to the petitioner.
26. Sri Dharmendra Rai, son of not known to the petitioner.
27. Sri Ashok Singh, son of not known to the petitioner.
28. Sri Upendra Mehta, son of not known to the petitioner.
29. Sri Raj Narayan Singh, son of not known to the petitioner.
30. Sri Bijay Pratap Singh, son of not known to the petitioner.
31. Sri Rama Rakesh Ranjan, son of not known to the petitioner.
32. Sri Ram Pravesh Yadav, son of not known to the petitioner.
33. Sri Gautam Thakur, son of not known to the petitioner.
34. Sri Pawan Kumar, son of not known to the petitioner.

35. Sri Jay Govind Paswan, son of not known to the petitioner.
36. Sri Ram Kumar Gupta, son of not known to the petitioner.
37. Sri Yugal Ram, son of not known to the petitioner.
38. Sri Mukhdev Chandravanshi, son of not known to the petitioner.
39. Sri Ajit Singh, son of not known to the petitioner.
40. Smt. Sunita Devi, wife of not known to the petitioner.
41. Smt. Rita Devi, wife of not known to the petitioner.

Respondent No- 9 to 41 are the members of Block Panchayat Samiti, Nabi Nagar, District - Aurangabad through the Block Development Officer, Nabi Nagar -cum- Executive Officer, Nabi Nagar Block Panchayat Samiti, District - Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava Mr. Sanjeev Nikesh
For the Respondent-State	:	Mr. Apurva Kumar, AC to GA-11
For the private Respondents	:	Mr. R.S. Pradhan Sr. Adv. with Mr. Amrendra Narain Rai.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 22-06-2015

Heard Mr. Shri Prakash Srivastava, learned counsel appearing on behalf of the petitioner, learned counsel for the State and Mr. R.S. Pradhan, learned senior counsel appearing for the requisitionists.

The petitioner is the erstwhile Up Pramukh of Panchayat Samiti, Nabi Nagar in the district of Aurangabad and has questioned the **no confidence motion** passed against him in the special meeting held on 24.12.2014.

The sole issue raised by the petitioner to question the **no confidence motion** is with respect to the requisition placed at Annexure-1 which though addressed to the Pramukh has been routed through the Block Development Officer –cum- Executive Officer, Panchayat Samiti, Nabi Nagar and is thus not in



consonance with the provisions underlying section 44(3) (i) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act'). Mr. Srivastava, learned counsel appearing for the petitioner in support of the issue has relied upon a Bench decision of this Court reported in **AIR 2015 Patna 7 (Devendra Yadav Vs. The State of Bihar)**.

Although the argument of Mr. Srivastava is sought to be contested by Mr. Pradhan, learned senior counsel appearing for the requisitionists to submit that even if the requisition was routed through the Block Development Officer – cum- Executive Officer since it had been presented directly to the Pramukh it satisfied the requirement underlying section 44(3)(i) of 'the Act' and thus the petitioner having been unseated in the special meeting, he cannot harp on technicality engulfing in the requisition.

I have heard learned counsel for the parties and I have perused the records.

The argument advanced by Mr. Srivastava is supported by the requisition, a copy of which is placed at Annexure-1 as well as Annexure-C to the counter affidavit of the private respondents. No doubt the requisition is addressed to the Pramukh but it has been routed through the Block Development Officer –cum- Executive Officer. The provisions

underlying section 44(3)(i) mandates presentation of a requisition to the Pramukh and is not to be routed through the Executive Officer. The issue raised by Mr. Srivastava is set at rest by the judgment of this Court rendered in the case of **Devendra Yadav** (supra) and several other judgments and thus is no more *res-integra*.

Since the requisition itself is invalid hence the **no confidence motion** passed against the petitioner on 24.12.2014 also becomes invalid and is accordingly set aside.

The writ petition is allowed and the petitioner is restored to the post of Up Pramukh, Nabi Nagar Panchayat Samiti in the district of Aurangabad. Interlocutory applications also stand disposed of.

It goes without saying that since the **no confidence motion** passed against the petitioner on 24.12.2014 has been set aside on account of statutory violation, this would not preclude the requisitionists to move afresh against the petitioner but in accordance with law.

(Jyoti Saran, J)

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