

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3559 of 2015

With

I.A. No.2332 of 2015

With

I.A. No.4350 of 2015

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Ram Shakal Rai, son of Late Kuldip Rai, resident of village- Mohammadpur
Deopar, P.S. Pusa, District – Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Samastipur.
2. The District Magistrate - cum - District Election officer (Panchayat), Samastipur.
3. The In-Charge Secretary, State Election Commission, Bihar, Patna.
4. The Block Development officer - cum - Executive officer, Pusa, District – Samastipur.
5. The District Panchayati Raj Officer, Samastipur.
6. Udai Shankar Rai, (the present Pramukh), son of Late Asharfi Rai, resident of village - Dushani Harpur, P.S. Pusa, District – Samastipur.
7. Urmila Thakur, (the present Up Pramukh), wife of Suresh Thakur, resident of village - Dhobgama, P.S. Pusa, District – Samastipur.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.1592 of 2015

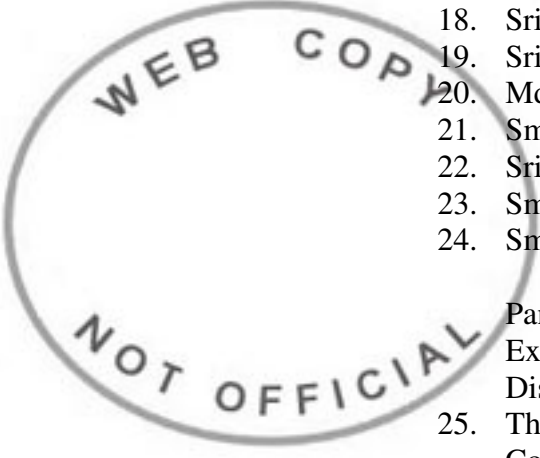
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Uday Shankar Rai, son of Late Asarfi Rai, resident of village and P.O.
Harpur Pusa, P.S. Pusa, District- Samastipur, presently Pramukh, Block
Panchayat Samiti, Pusa, District- Samastipur.

.... 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, Samastipur, District- Samastipur.
5. The Sub-Divisional Officer, Samastipur, District- Samastipur.
6. The Block Development Officer, Pusa -cum- Executive Officer, Block Panchayat Samiti, Pusa, District- Samastipur.
7. Smt. Urmila Thakur, wife of Sri Suresh Prasad Thakur, Up-Pramukh of Block Panchayat Samiti, Pusa, P.O. & P.S. Pusa, District- Samastipur.
8. Sri Pramod Kumar Chaudhary, son of not known to the petitioner.
9. Sri Ashok Paswan, son of not known to the petitioner.
10. Sri Varun Kumar, son of not known to the petitioner.
11. Sri Ajay Kumar Rai, son of not known to the petitioner.
12. Smt. Rekha Devi, wife of not known to the petitioner.
13. Smt. Ranju Devi, wife of not known to the petitioner.
14. Smt. Veena Mishra, wife of not known to the petitioner.

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15. Sri Vijay Kumar Shah, son of not known to the petitioner.
 16. Smt. Jagriti Devi, wife of not known to the petitioner.
 17. Smt. Sonam Devi, wife of not known to the petitioner.
 18. Sri Ram Sakal Rai, son of not known to the petitioner.
 19. Sri Pramod Kumar, son of not known to the petitioner.
 20. Md. Akhtar, son of not known to the petitioner.
 21. Smt. Veena Devi, wife of not known to the petitioner.
 22. Sri Ranjit Sharma, son of not known to the petitioner.
 23. Smt. Sudama Devi, wife of not known to the petitioner.
 24. Smt. Renu Devi, wife of not known to the petitioner.

Respondent Nos. 7 to 24 are the elected Members of the Block Panchayat Samiti, Pusa through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Pusa, P.O. & P.S. Pusa, District- Samastipur.

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

.... Respondent/s

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Appearance :

(In CWJC No.3559 of 2015)

For the Petitioner/s : Mr. Amish Kumar

For the Respondent/s : Mr. M.K. Singh- SC6

(In CWJC No.1592 of 2015)

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

Mr. Chandan

For the Respondent/s : Mr. Rajiv Roy, GP-5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-06-2015

Heard the parties.

Since both the matters relate to the same Panchayat Samiti and the issues raised therein are inter related that they have been heard analogous and are being disposed of by a common order with the consent of the parties at the stage of admission itself.

A detailed order stands recorded in the order dated 17.4.2015 as to the issues raised by the petitioner in CWJC No.3559 of 2015 and requires no reiteration. Suffice it to say that



the petitioner who happens to be the Member of the Panchayat Samiti, Pusa in the district of Samastipur is aggrieved by the inaction of the Pramukh as well as the statutory authorities in not taking the requisition filed on behalf of the Panchayat Samiti member expressing no confidence in the Pramukh of Panchayat Samiti under section 44(3)(i) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act'), to its logical conclusion. In fact the very requisition moved by the Panchayat Samiti Member is sought to be questioned by the Pramukh on separate grounds in the second writ petition.

The fact remains that the requisition dated 8.12.2014 which is a valid requisition has not seen the light of the day. Neither the Pramukh of the Panchayat Samiti nor the Executive Officer –cum- Block Development Officer, Pusa have bothered to proceed on the requisition leaving the requisitionists as well as the proceeding in a limbo.

Mr. S.B.K. Manglam has appeared for the Up Pramukh in CWJC No.3559 of 2015 and for the Pramukh who is the petitioner in CWJC No.1592 of 2015 to submit that a criminal case has been instituted against the Pramukh and thus he has taken recourse to the remedy as available for him for securing bail and it is in these circumstances that the matter remains as it is.



As I have already observed that the confusion that has resulted stands recorded in the order dated 17.4.2015 and which shall form part of the present order and thus requires no reiteration. In my opinion, since the requisition dated 8.12.2014 moved by the 7 requisitionists did not suffer from any legal infirmity, the Pramukh was under a legal duty to fix a date of special meeting. For the reasons recorded in my order passed on 17.4.2015 in CWJC No.3559 of 2015 it has not been done and the Executive Officer as well as the District Magistrate, Samastipur also share responsibility for the same.

Having heard learned counsel for the parties and considering the circumstances as it prevails today where the Pramukh is facing criminal prosecution and has taken recourse to avail the remedy of bail in my opinion, since I find no infirmity in the requisition dated 8.12.2014 moved by the 7 Panchayat Samiti members, the petitioner Pramukh would be under a duty to fix the date of special meeting within one week from the date he secures the privilege of bail. If the Pramukh fails to fix the date of special meeting for consideration of the no confidence motion moved against him vide requisition dated 8.12.2014 within one week of his securing the bail the requisitionists would be at liberty to fix the date of special meeting by following statutory provisions

underlying section 44(3) (i) of 'the Act' and the Executive Officer –cum- Block Development Officer, Pusa, Samastipur would discharge his obligation and take all possible steps to take the no confidence motion moved through requisition dated 8.12.2014 to its logical conclusion.

The writ petitions and the interlocutory applications are accordingly disposed of.

(Jyoti Saran, J)

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