

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14526 of 2014

With
Interlocutory Application No. 6459 of 2014
With
Interlocutory Application No. 157 of 2015

- =====
1. Sheikh Hassmuddin S/o Sheikh Wasiuddin R/o Village + P.O. Jogiya, P.S. Ramnagar, District West Champaran, at present Prakhand Up Pramukh Ramnagar.
 2. Mansha Bharti W/o Sri Ashok Ram R/o Village Pachrukha, P.O. Dumaria, P.S. Ramnagar, District West Champaran, at present Prakhand Pramukh Ramnagar.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Panchayati Raj, Bihar, Patna.
2. District Magistrate, West Champaran.
3. District Panchayat Officer, District West Champaran.
4. Sub Divisional Officer (S.D.O.), Ramnagar, West Champaran.
5. Executive Officer-cum-Block Development Officer, Panchayat Samiti, Ramnagar.

..... Respondents 1st Set.

6. Mr. Suresh Prasad S/o Not known
7. Shri Chansi Pandit S/o Not known
8. Smt. Kishori Devi W/o Not known
9. Sri Vinod Mahto S/o Not known
10. Sri Lakhan Ram S/o Not known
11. Sri Naushad Ali Akhari S/o Not known
12. Sri Nami Ram S/o Not known
13. Sri Ramesh Mahto S/o Not known
14. Sri Rajesh Kumar Nag S/o Not known
15. Smt. Joniya Devi W/o Not known
16. Smt. Ranju Devi W/o Not known
17. Smt. Dhupa Devi W/o Not known
18. Smt. Nirmala Devi W/o Not known
19. Smt. Usha Devi W/o Not known
20. Smt. Reshma Khatun W/o Not known
21. Smt. Savita Devi W/o Not Known
22. Smt. Indu Devi W/o Not known
23. Smt. Gayatri Devi W/o Not Known null
24. Sri S. Sarfuddin S/o Not known
25. Sri Vinod Ram S/o Not known
26. Sri Sanjay Kumar Rao S/o Not known
27. Smt. Panna Devi W/o Not known Respondent No. 6 to 27 are all members of Ram nagar Panchayat Samiti, Ram nagar through D.B.O.-cum-Executive Officer, Ram Nagar (West Champaran).

.... Respondent 2nd Set

=====

Appearance :

For the Petitioner/s : Mr. Manan Kumar Mishra, Sr. Adv.
For the Respondent-State: Mr. Sandip Singh, A.C. to G.P.9
For the private respondent: Mr. Anil Kumar Jha, Sr. Adv.
Mr. Ravindra Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 10-02-2015 Heard Mr. Manan Kumar Mishra, learned Senior counsel
for the petitioners, learned counsel for the State and Mr. Anil
Kumar Jha, learned Senior counsel for the private respondents.

The petitioners have questioned the no confidence motion
passed against them on 14.8.2014, a copy of which is placed at
Annexure-1 to the writ petition. Whereas the petitioner No.1
happens to be the Up-Pramukh of the Ram Nagar Panchayat
Samiti in the District of West Champaran, the petitioner No. 2
Mansha Bharti is the Pramukh of the Samiti.

Mr. Mishra has questioned the motion primarily on the
following three grounds:

- (a) The requisition present at Annexure-3 was not presented
to the petitioner No.2, the Pramukh, in the manner
prescribed under Section 44(3)(i) of the Bihar
Panchayat Raj Act, 2006 (hereinafter referred to as 'the
Act')
- (b) The charges are vague; and
- (c) There is no discussion in the special meeting on the

allegations.

I have heard learned counsel for the parties and I have perused the materials on record.

In so far as the issue of presentation is concerned, the argument fails in view of the admission of the petitioner himself in the representation addressed to the Block Development Officer – cum- Executive Officer of the Panchayat Samiti present at Annexure-5 to the writ petition in which he has admitted to receipt of the requisition by speed post on 18.7.2014.

As to what would constitute a presentation of a requisition, this issue stands discussed in the judgment of this Court rendered in C.W.J.C. No. 11142 of 2014 (Amit Kumar Vs. State) and which judgment stands affirmed by the Division Bench in L.P.A. No. 1074 of 2014. Though the judgment is in connection with the service of requisition under the Bihar Municipal Act, 2007 and the Bihar No Confidence Motion Rules, 2010 on the Chief Councillor but the prescription of law in the two statutes i.e. Rule 2(i) of the Bihar Municipal No Confidence Motion Rules and Section 44(3)(i) of the Bihar Panchayat Raj Act are the same and require the requisition to be presented to the functionary head. There may be circumstances where a requisition can not be directly served on the Pramukh either on account of his unavailability or due to his



deliberate avoidance and in such circumstances it would not be an infirmity for the requisitioner to file the requisition in the office of the Executive Officer for its onward presentation to the Pramukh. The requisition can also be presented to the Pramukh by way of speed post for 'the Act' no where prohibits such service or can be served in the manner provided under Order 5 Rule 17 of the Code of Civil Procedure. The focal point and legislative intendment is that the requisition should reach the Pramukh and he is made aware of the motion. Once this is established then the manner of service becomes irrelevant.

In so far as the case in hand is concerned, admittedly, the requisition has reached the petitioner by way of speed post and which would constitute a valid presentation as per statutory requirement.

The argument of Mr. Mishra also does not sustain on the vagueness of allegation. The requisition present at Annexure-3 names no less than six charges against the Pramukh and the Up-Pramukh and it is in the backdrop of such allegations that the members of the Panchayat Samiti have expressed no confidence in the Pramukh and the Up-Pramukh. Whether they held good or not was a matter to be discussed in the special meeting and a perusal of the proceedings in the special meeting manifest that all these

allegations were discussed and were supported by the members present in the meeting except the Up-Pramukh. The Pramukh absented herself from the meeting. It is following the discussion that Secret Ballots took place and in which the petitioners have been voted of. Thus not only the members have considered the allegations and discussed it but have also voted to support the motion expressing no confidence in the petitioners.

My observation aforementioned would answer the other issues also raised by Mr. Mishra regarding absence of discussion. The minutes of special meeting does manifest that the allegations were read out and were discussed and whereafter the members except the Up-Pramukh supported the motion.

For the reasons aforementioned, there is no merit in the writ petition requiring indulgence. It is accordingly dismissed. The interlocutory applications stands disposed of.

Bibhash/-

(Jyoti Saran, J)

U			
---	--	--	--