

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13993 of 2015

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Akshayvar Yadav son of Late Bhim Yadav, resident of village- Dada Baba Ke Dera, P.O. Barka Rajpur, P.S.- Simri, District- Buxar, presently Chairman (Adhyaksh), Zila Parishad, Buxar, District- Buxar

.... 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, Buxar, District- Buxar
5. The Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, District- Buxar
6. Sanjeev Kumar Singh, son of not known to the petitioner, Presently Vice Chairman (Up-Adhyaksh), Zila Parishad, Buxar, P.O. and P.S. Buxar, District- Buxar
7. Sri Arbind Kumar Singh, Son of not known to the petitioner,
8. Smt. Mina Devi, wife of not known to the petitioner,
9. Smt. Kavita Devi, wife of not known to the petitioner,
10. Smt. Mira Devi, wife of not known to the petitioner,
11. Sri Arvind Pratap Shahi son of not known to the petitioner, null
12. Smt. Bahetri Devi, wife of not known to the petitioner,
13. Sri Manoj Kumar Singh, son of not known to the petitioner,
14. Sri Mohan Prasad, son of not known to the petitioner,
15. Smt. Shobha Devi, Wife of not known to the petitioner,
16. Smt. Asha Pandit, wife of not known to the petitioner,
17. Sri Sanjay Kumar, son of not known to the petitioner,
18. Sri Sonu Kumar Singh, son of not known to the petitioner,
19. Smt. Somaria Kuer, wife of not known to the petitioner,
20. Smt. Geeta Yadav, wife of not known to the petitioner,
21. Sri Dharmendra Pandey, son of not known to the petitioner,
22. Smt. Manju Devi, wife of not known to the petitioner,
23. Smt. Pushpa Devi, wife of not known to the petitioner,
24. Sri Sheo Bilas Shah, son of not known to the petitioner,

Respondent Nos. 7 to 24 are the elected Members of Zila Parishad, Buxar through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S.- Buxar, District- Buxar

.... Respondent/s

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Appearance:

For the Petitioner/s : Mrs. Anita Kumari, Advocate
For the Respondent/s : Mr. D.K. Sinha, AAG-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 15-09-2015

Heard Mr. S.B.K. Manglam, learned counsel appearing on behalf of the petitioner and learned counsel for the State.

The petitioner who is the Chairman (Adhyaksha), Zila Parishad, Buxar, came before this Court questioning the requisition dated 10.8.2015 present at Annexure-1 *inter alia* on grounds that it has not been delivered on the petitioner in the manner prescribed under Section 70(4) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') and that it was communicated to him through the Chief Executive Officer who happens to be the Deputy Development Commissioner of the District. Since the petitioner did not proceed to fix the date of special meeting that it has been fixed by the requisitionists and a notice in this regard has been issued by the Chief Executive Officer on 03.9.2015 fixing the date of special meeting on 16.9.2015. A copy of the notice is impugned at Annexure-4 to I.A. No. 7527 of 2015.

Mr. Manglam, learned counsel appearing on behalf of the petitioner has questioned the proceedings on two grounds:

- (a) That the requisition has not been delivered in the manner provided under Section 70(4) of 'the Act', and
- (b) That the requisition is not to move a 'no

confidence motion' but requires the Adhyaksha to prove his majority in the special meeting which is not the requirement of law.

In my opinion both the issues raised by Mr. Manglam are only taken to be rejected. Whereas on the issue of delivery, all that Section 70(4) of 'the Act' mandates is that a copy of the requisition is to be delivered on the Adhyaksha and which has indeed been delivered to the Adhyaksha through the Chief Executive Officer of the Zila Parishad who is the custodian of all documents in terms of the provisions of Section 88(d) of 'the Act'. There is no dispute on facts. In my opinion, considering the statutory provision of Section 70(4) which merely requires a delivery of requisition on the Adhyaksha, there is absolutely no infirmity in the delivery of the requisition so effected on the petitioner as the Adhyaksha of the Zila Parishad through the Executive Officer of the Zila Parishad.

Insofar as the other issue raised by Mr. Manglam regarding the format of the requisition is concerned in requiring the Adhyaksha to prove his majority, in my opinion, the same is also not a correct appreciation of the requisition which unquestionably reflects loss of confidence shown by the signatory to the requisition in the Adhyaksha and who has been requested to

either voluntary resign or hold a special meeting for its consideration and proving his majority.

For the reasons aforementioned, I am not persuaded to grant indulgence to the prayer made. The writ petition is dismissed.

(Jyoti Saran, J)

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