

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15903 of 2015

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1. Madan Prasad Son of late Gopal Prasad resident of New Area Jora Mandir , Dehir On Sone, P.S Dehri District- Rohtas Presently the Ward Councillor, Dehri Nagar Parishad ,Dehri Dalmiyanager,District Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Urdan and Housing Development Department Bihar,Patna.
2. The Chief Councillor, Nagar Parishad, Dehri Dalmiyanagar, District Rohtas.
3. The Deputy Chief Councillor, Nagar Parishad Dehriu Dalmiyanagar, District Rohtas.
4. The Collector cum the District Magistrate, Rohtas at Sasaram ,District Rohtas.
5. The Executive Officer, Nagar Parishad,Dehri Dlamianagar, District Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Prakash, Adv.
For the Respondent/s : Mr. Raju Giri, GP-30
For the Nagar Parishad : Mr. Avinash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 12-10-2015 Heard Mr. Amar Prakash, learned counsel for the petitioner, learned counsel for the State and Mr. Avinash Kumar for the Nagar Parishad, Dehri in the district of Rohtas.

The petitioner is aggrieved by the action of the Deputy Chief Councillor in not convening the special meeting for consideration of the no confidence motion so moved by the requisitionists against the Chief Councillor, a copy of which is placed at Annexrue-2 to the writ petition.

It is the case of the petitioner that the requisition was moved



by 1/3rd members of the Parishad and which was also acted upon inasmuch as a date of special meeting was fixed on 20.7.2015, vide notice placed at Annexure-4. On 20.7.2015, the motion could not be considered since the Councillors present did not choose to even put their attendance on the register and as a consequence the Deputy Chief Councillor who presided over the meeting adjourned the same. This fact is manifest from the letter dated 23.7.2015 of the Executive Officer, Nagar Parishad placed at Annexure-5 as well as from the letter of the Deputy Chief Councillor, Nagar Parishad present at Annexure-7. It is the grievance of the petitioner that since after the adjournment of the special meeting on 20.7.2015, no date has been fixed for consideration of the motion.

Section 50(2) of the Bihar Municipal Act (hereinafter referred to as 'the Act') provides for circumstances in which a meeting cannot be taken to its logical conclusion and in which the Presiding Officer is vested with power to adjourn the meeting or suspend the same. Sub section (3) of Section 50 further casts an obligation on the Presiding Officer to fix a date of next meeting to consider the motion which should not be within 3 days of the adjournment and on such adjourned date, there would not be any quorum required to consider the motion.

The letter of the Deputy Chief Councillor reflects that she is putting the blame on the Executive Officer for not fixing the date of special meeting even when under Section 50(3) of 'the Act' the responsibility is cast upon the Deputy Chief Councillor or the Presiding Officer to fix the date of meeting.

In the circumstances discussed the writ petition is disposed of with liberty to the petitioner and the requisitionists to draw the attention of the Deputy Chief Councillor who is the Presiding Officer in the present case to fix the date of special meeting for consideration of the motion and in case the Deputy Chief Councillor fails to discharge the obligation the requisitionists shall be at liberty to proceed in the matter in accordance with the provisions stipulated under Rule 2(iii) of the Bihar Municipal No Confidence Process Rules, 2010.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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