

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18738 of 2013

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Kali Chandra Rai S/o Late Dewan Rai, resident of village- Hanuman Nagar, Police Station- Madhwapur in the District of Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj, Government of Bihar, Patna.
2. The State of Bihar through the Principal Secretary, Panchayati Raj, Government of Bihar, Patna.
3. The Principal Secretary, Panchayati Raj, Government of Bihar, Patna.
4. The Principal Secretary, Panchayati Raj, Government of Bihar, Patna.
5. The District Magistrate- Cum- Collector, Madhubani.
6. The District Magistrate- Cum- Collector, Madhubani.
7. The District Panchayat Raj Officer, Madhubani.
8. The District Panchayat Raj Officer, Madhubani.
9. The Block Panchayat Raj Officer, Madhwapur Block in the District of Madhubani.
10. The Block Panchayat Raj Officer, Madhwapur Block in the District of Madhubani.
11. The Block Development Officer, Madhwapur in the District of Madhubani.
12. The Block Development Officer, Madhwapur in the District of Madhubani.
13. Mr. Raj Kishore Yadav S/o Ram Nandan Yadav the Mukhiya, Gram Panchayat, Basuki Bihari, Dakshini under the Madhwapur Block in the District of Madhubani.
14. Mr. Raj Kishore Yadav S/o Ram Nandan Yadav the Mukhiya, Gram Panchayat, Basuki Bihari, Dakshini under the Madhwapur Block in the District of Madhubani.
15. Mr. Ram Babu Sahni S/o Bikau Sahni (Ward Member Ward No. 5), resident of Village- Brahmpuri, Police Station- Madhwapur in the district of Madhubani.
16. Mr. Ram Babu Sahni S/o Bikau Sahni (Ward Member Ward No. 5), resident of Village- Brahmpuri, Police Station- Madhwapur in the District of Madhubani.
17. Anita Devi W/o Naresh Sahni (Ward Member, Ward No. 4) resident of Village- Brahmpuri, Police Station- Madhwapur in the District of Madhubani.
18. Anita Devi W/o Naresh Sahni (Ward Member, Ward No. 4) resident of Village- Brahmpuri, Police Station- Madhwapur in the District of Madhubani.
19. Mr. Bhushan Kumar S/o Jainandan Thakur (Ward Member, Ward No. 1) resident of Village- Babhani Patti, Police Station- Madhwapur in the District of Madhubani.
20. Mr. Bhushan Kumar S/o Jainandan Thakur (Ward Member, Ward No. 1) Resident of Village- Babhani Patti, Police Station- Madhwapur in the District of Madhubani.
21. Veena Devi W/o Bharat Ram (Ward Member, Ward No. 3) resident of Village- Janki Nagar, Police Station- Madhwapur in the District of Madhubani.
22. Veena Devi W/o Bharat Ram (Ward Member, Ward No. 3), resident of Village- Janki Nagar, Police Station- Madhwapur in the District of Madhubani.
23. Shaira Khatoon W/o Late Md. Shakir (Ward Member Ward No. 13), resident of Village- Hanuman Nagar, Police Station- Madhwapur in the District of Madhubani.
24. Shaira Khatoon W/o Late Md. Shakir (Ward Member Ward No. 13), resident of

Village- Hanuman Nagar, Police Station- Madhwapur in the district of Madhubani.

25. Mr. Awadh Manjhi S/o Faguni Sada (Ward Member Ward No. 2) resident of Village- Basuki, Police Station- Madhwapur in the District Of Madhubani.
26. Mr. Awadh Manjhi S/o Faguni Sada (Ward Member Ward No. 2) resident of Village- Basuki, Police Station- Madhwapur in the district of Madhubani.
27. Rekha Devi W/o Manoj Mandal (Ward Member, Wad No. 6) resident of Village- Basuki, Police Station- Madhwapur in the district of Madhubani.
28. Rekha Devi W/o Manoj Mandal (Ward Member, Wad No. 6) resident of Village- Basuki, Police Station- Madhwapur in the district of Madhubani.
29. Rajnandan Mandal S/o Yogendra Mandal (Ward Member, Ward No. 7) resident of Village- Basuki, Police Station- Madhwapur in the district of Madhubani.
30. Rajnandan Mandal S/o Yogendra Mandal (Ward Member, Ward No. 7) resident of Village- Basuki, Police Station- Madhwapur in the district of Madhubani.
31. Ranju Devi W/o Amarnath Chaudhary (Ward Member Ward No. 8), resident of Village- Basuki, Police Station- Madhwapur in the district of Madhubani.
32. Ranju Devi W/o Amarnath Chaudhary (Ward Member Ward No. 8), resident of Village- Basuki, Police Station- Madhwapur in the district of Madhubani.
33. Kalashiya Devi W/o Sushil Yadav (Ward Member, Ward No. 9) resident of Village- Durga Patti, Police Station- Madhwapur in the district of Madhubani.
34. Kalashiya Devi W/o Sushil Yadav (Ward Member, Ward No. 9), resident of Village- Durga Patti, Police Station- Madhwapur in the District of Madhubani.
35. Sanjula Devi W/o Dilip Mandal (Ward Member, Ward No. 10) resident of Village- Durga Patti, Police Station- Madhwapur in the district of Madhubani.
36. Sanjula Devi W/o Dilip Mandal (Ward Member, Ward No. 10) resident of Village- Durga Patti, Police Station- Madhwapur in the district of Madhubani.
37. Ram Hridaya Sada S/o Muneshwar Sada (Ward Member, Ward No. 11) resident of Village- Durga Patti, Police Station- Madhwapur in the District of Madhubani.
38. Ram Hridaya Sada S/o Muneshwar Sada (Ward Member, Ward No. 11) resident of Village- Durga Patti, Police Station- Madhwapur in the district of Madhubani.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sunil Kumar, Advocate

For the Respondent/s: Mr. Rajiv Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-08-2015

Heard Mr. Sunil Kumar, learned counsel for the petitioner, Mr. Indrajeet Bhushan, Assisting Counsel to G.P. 2 for the State and Mr. Manoj Kumar Jha for the private respondents.

The petitioner is the Up-Pramukh of Gram Panchayat,



Basuki Bihari Dakshini in the district of Madhubani and is aggrieved by the resolution passed on 26.8.2013 whereunder the 'no confidence motion' moved against the petitioner has been confirmed. A copy of the proceedings of the special meeting is present at Annexure-1 to the writ petition.

Although the 'no confidence motion' has been questioned by the petitioner Up-Pramukh on several grounds but considering that the petitioner participated in the special meeting but did not choose to raise any issue as sought to be raised in the writ petition, in my opinion the petitioner is estopped from raising any objection after having waived his right to do so during the special meeting. The proceedings are placed at Annexure-1 and manifest that the allegations so set up against the petitioner after being discussed was relegated to voting in which the majority of the members voted in support of the motion. The petitioner has been ousted without raising objection and thus there is no ground available for the petitioner to question the motion before this Court on the principles of waiver.

The issue of waiver in context with the proceedings of 'no confidence' stands concluded by the decision of this Court in **2010(1) PLJR 929 (Smt. Shamshad Khatun vs. State of Bihar)** and which principles have been reiterated in context with the Bihar Municipal Act in the judgment reported in **2010(3) PLJR 259 (Vinay**

Kumar “Pappu” vs. State of Bihar). The petitioner having participated in the proceedings without raising any objections has waived his right to question the motion on any ground.

In the circumstances discussed, this Court is not persuaded to interfere with the motion so passed against the petitioner and the writ petition is accordingly disposed of.

The order of stay passed on 04.10.2013 stands vacated.

(Jyoti Saran, J)

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