

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12591 of 2014

With

I.A. No.5797 of 2014

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Hareram Gupta, S/o Shiv Nath Sah, Presently Pramukh of Block Panchayat Samiti,
Mairwan, P.O and P.S. Mairwan, District- Siwan.

.... 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 Secretary, Bihar State Election Commission, Patna.
5. The BDO cum Executive Officer, Prakhand Panchayat Samiti, Mairwan, District- Siwan.

..... Respondents 1st Set.

6. Narsullah Ansari.
7. Arun Kumar Sah.
8. Manki Devi.
9. Santosh Kumar Rai.
10. Girja Devi.
11. Ramrup Yadav.
12. Vijay Sah.
13. Janpat Raj
14. Sriram Yadav.
15. Srikrishna Prasad.
16. Anirudhdh Sah.
17. Reena Devi.
18. Smt. Tara Devi.
19. Vimla Devi.
20. Ajendra Singh.
21. Dinanath Bin.
22. Kasim Alam.
23. Kunti Devi.
24. Noor Nisa.
25. Tarawati Devi.

All are members of Prakhand Panchayat Samiti, Mairwan, District- Siwan,
through the Executive Officer cum BDO, Mairwan, District- Siwan.

26. Mohan Prasad Rajbhar, Up- Pramukh, Prakhand Panchayat Samiti, Mairwan, District- Siwan.

.... Respondents 2nd Set.

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Appearance :

For the Petitioner/s	:	Mr. Suresh Pd Singh No.1
For the Respondent-State	:	Mr. Sunil Kumar Mandal, SC-24 Mr. Arjun Prasad, AC to SC-24
For State Election Commission:		Mr. Amit Shrivastava Mr. Sanjeev Nikesh
For the Private Respondents:	:	Mr. S.B.K. Manglam Mr. Ravi Ranjan

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-02-2016

Heard Mr. Suresh Prasad Singh No.1, learned counsel appearing for the petitioner, Mr. Sunil Kumar Mandal, learned Standing Counsel No.24 for the State, Mr. Amit Shrivastava, learned counsel appearing for the State Election Commission and Mr. S.B.K. Manglam, learned counsel appearing for the private respondents.

The petitioner happens to be the Ex-Pramukh of the Panchayat Samiti, Mairwan in the district of Siwan and has been unseated in the *no confidence motion* passed on 28.7.2014 impugned at Annexure-5 to I.A.No.5797 of 2014.

Although several issues have been raised by the petitioner to question the motion but the issue which would conclude the contest is the invalidity of the requisition so moved by the members of the Panchayat Samiti to bring the motion against the petitioner, a copy of which is placed at Annexure-3 to the writ petition and which is addressed to the Block Development Officer – cum- Executive Officer of the Panchayat Samiti.

Mr. Singh, learned counsel for the petitioner with reference to section 44(3) (i) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as ‘the Act’) submits that although a copy of

the requisition is to be endorsed to the Block Development Officer –cum- Executive Officer but the same has to be addressed to the Pramukh and is to be presented to him.

There cannot be any dispute to the legal position so advanced. It is a matter of record that the invalid requisition addressed to the Block Development Officer –cum- Executive Officer was acted upon, the date of special meeting was fixed and the special meeting held in which the motion was passed against the petitioner. The petitioner while objecting to the requisition did not choose to participate in the special meeting held on 28.7.2014. It is considering the invalidity of the requisition that notice was issued by this Court to the respondents who have appeared through their respective counsel and have also filed their affidavit.

Although an objection is being raised by Mr. Manglam that the members who participated in the special meeting have not been arraigned as parties but the objection is misplaced in view of the interlocutory application filed by the petitioner bearing I.A. NO.5797 of 2014 seeking their impleadment.

Having heard learned counsel for the parties and considering the apparent illegality in the requisition placed at Annexure-3 it would not require a detailed discussion to hold that the entire proceedings of the *no confidence motion* resulting in the

passing of the motion on 28.7.2014 is founded on an illegal requisition rendering the proceedings illegal in its entirety.

In the circumstances the requisition moved by the members present at Annexure-3, the notice circulated at Annexure-4 and the motion passed on 28.7.2014 in the special meeting so held impugned at Annexure-5 to I.A. No.5797 of 2014 are held illegal and are accordingly set aside. The petitioner stands restored to the post of Pramukh, Panchayat Samiti, Mairwan, Siwan.

The writ petition is allowed. The Interlocutory application(s) stands disposed of.

The interim order passed on 22.8.2014 stands confirmed.

(Jyoti Saran, J)

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