IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11029 of 2015

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1. Sita Devi wife of Lal Saheb Singh Resident of village - Khadaon, Police Station - Dinara, District - Rohtas (Sasaram).

.... Petitioner/s

Versus

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1. The State of Bihar.
2. The District Magistrate, Rohtas (Sasaram).
3. The D.D.C. Rohtas (Sasaram).
4. The Sub-Divisional Officer, Sasaram.
5. The Executive Officer, Block Development Officer, Block - Kochas, District - Rohtas (Sasaam).
6. The District Panchayati Raj Officer, Rohtas, Sasaram.
7. Manju Devi wife of Santosh Kumar Resident of village - Parasia, Gram Panchayat Laheri, District - Rohtas.
8. Nirmala Devi wife of Sunil Kumar Resident of village - Kochas, Gram Panchayat Kochas, Police Station Kochas, District - Rohtas.
9. Hriday Nonia son of Late Indrasan Chauhan Resident of village - Nowa, Police Station - Dinar (Bhanas O.P.), District - Rohtas.
10. Ramamuni Paswan son of Late Ram Surat Paswan Resident of village - Agarsidha, Police Station - Karahagar, District - Rohtas.
11. Mohan Singh son of Late Dagran Chauhan Resident of village - Gram Panchayat Karjar, Police Station - Kochas, District - Rohtas.
12. Smt. Arti Devi wife of Ramashray Paswan Resident of village - Bahurnapur, Gram Panchayat, Bathari, P.S. Kochas, District - Rohtas.
13. Smt. Rita Devi wife of Ajay Singh Resident of village - Kulhara, Gram Panchayat Redia, P.S. Karahgar, District - Rohtas.
14. Smt. Dharmawati Devi wife of Bimal Chaudhary Resident of village - Saroser, Gram Panchayat Narwan, P.S. Dinara, District - Rohtas.
15. Ram Badai Paswan son of Late not known Resident of village - Chatra, Gram Panchayat + P.S. Kuchila, District - Rohtas.
16. Manoj Kumar Singh son of Shri Bhagwan Singh Resident of village - Bahuara Gram Panchayat Kathrai, P.S. Parsathuwa, District Rohtas.
17. Smt. Suniana Devi wife of Ram Narain Chaudhary Resident of Village - Baradih, Gram Panchayat Kapasia, P.S. Kochas, District - Rohtas.
18. Surendra Nath Singh son of Hari Narayan Singh Resident of Village - Athwalia, Gram Panchayat Kapasia, P.S. Parsathuawa, District - Rohtas.
19. Haridwar Mahto son of Late Jagropan Mahto Resident of village - Satrauli, Gram Panchayat - Kathrai, P.S. Parsathuawa, District - Rohtas.
20. Rajgrahi Ram son of Late Pach Pauri Ram Resident of village - Sarya, Gram Panchayat Sariya, P.S. Kochas, District - Rohtas.
21. Nikhat Bibi wife of Serajuddin Ansari Resident of village - Andhari, Gram Panchayat - Gara, P.S. - Kochia, District - Rohtas.
22. Raghubar Sah son of Late Ramadhar Sah Resident of village - Dihta, Gram Panchayat Chitauni, P.S. Parsathuawa, District - Rohtas.
23. Dharamsheela Devi wife of Wakil Singh Resident of Village - Katiyara, Gram Panchayat Chitaon, P.S. Dinara, District - Rohtas.
24. Aarti Devi wife of Vijay Kumar Resident of village - Usraon, Gram Panchayat - Nowa, P.S. Dinara (O.P. Bharas), District - Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sajid Salim Khan, Adv.
For the Respondent/s : Mr. Nadeem Seraj- GP-20
For the private respondent: Mr. Anil Kumar Singh, Adv.
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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL ORDER

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7 28-01-2016 Heard Mr. Sajid Salim Kham, learned counsel for the petitioner, learned counsel for the State, learned counsel for the State Election Commission and Mr. Anil Kumar Singh, for the private respondent.

The petitioner is the Ex-Pramukh of Panchayat Samiti, Kochas in the district of Rohtas and has been ousted in the no confidence motion passed in the special meeting held on 29.7.2015, a copy of which is placed at Annexure-9 to I.A.No.6253 of 2015.

The short issue raised by Mr. Khan appearing for the petitioner to question the motion is that it is based on an illegal requisition inasmuch as the requisition so moved to bring the motion against the petitioner placed at Annexure-3 which is dated 6.6.2015 is in fact addressed to the Block Development Officer-cum-Executive Officer, Panchayat Samiti, Kochas and not to the Pramukh as mandated under Section 44(3)(i) of the Bihar Panchayat Raj Act (hereinafter referred to as 'the Act'). He submits that considering the invalidity of the requisition that the petitioner did not act thereon. It is submitted that without satisfying the requirements that an application was submitted by

the requisitionists to the Block Development Officer informing their decision to fix the date of special meeting on 29.7.2015 and following which a notice was issued by the Block Development Officer-cum-Executive Officer on 29.6.2015 communicating the date of special meeting to the parties, a copy of which is placed at Annexure-5 which was followed by the special meeting held on 29.7.2015 vide Annexure-9 in which the petitioner has been ousted by the majority of the elected members voting. He submits that the petitioner considering the illegality in the motion initiated, did not participate.

The argument of Mr. Khan is contested by Mr. Singh appearing for the respondents and who supports the motion on grounds that it has been accepted by the majority of the elected members. Mr. Singh, however, conveniently does not choose to contest the illegality in the requisition which is admittedly addressed to the Block Development Officer-cum- Executive Officer as manifest from Annexure-3.

I have heard learned counsel for the parties and have perused the records.

The motion is invalid right from its inception for the requisition placed at Annexure-3 is in clear violation of the provisions of Section 44(3)(i) of ‘the Act’ which manifests that it should be presented to the Pramukh, meaning thereby it is to be

addressed to the Pramukh and not to the Executive Officer. The illegality does not stop here and is perpetuated in the notice issued by the Block Development Officer communicating the date of special meeting fixed by the requisitionists vide Annexure-6 which does not contain the reasons/charges on which the requisition has been moved and thus is in clear violation of the provisions of Section 44(3)(v) of 'the Act'. That the petitioner has rightly avoided to participate in the meeting on the illegalities so glaringly staring at the face of the motion, the no confidence motion passed against the petitioner founded on such illegalities, is held illegal and is accordingly set aside. Since the motion is based on an illegal requisition hence the entire proceedings of the no confidence motion beginning from the service of requisition vide Annexure-3 the notice present at Annexure-5 and the decision taken in the special meeting held on 29.7.2015 impugned at Annexure-9 are held illegal and contrary to the express provisions of the Act and thus are set aside.

The writ petition is allowed. The petitioner stands restored to her post of Pramukh, Panchayat Samiti, Kochas, Rohtas. The interlocutory application stands disposed of.

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(Jyoti Saran, J)