

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5269 of 2016

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Pravin Kumar Chakrabarti, S/O- Ravindra Nath Chakrabarti, resident of
Village- English, (Ward No.-4), Police Station- and District- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Urban Development
Department, Government of Bihar, Patna.
2. The District Magistrate, Lakhisarai.
3. The Nagar Executive Officer, Nagar Parishad, Lakhisarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar

For the Respondent/s : Mr. Madhuresh Prasad, GP-12

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 18-03-2016 Heard Mr. Amrendra Kumar, learned counsel appearing
for the petitioner and learned counsel for the State.

The petitioner is aggrieved by the notice bearing Memo
no.237 dated 11.2.2016 issued by the Executive Officer, Nagar
Parishad, Lakhisarai, whereby the date of special meeting for
consideration of the *no confidence motion* moved against the Chief
Councilor was fixed for 24.2.2016.

Mr. Kumar, learned counsel appearing for the petitioner
with reference to rule 2(i) of the Bihar Municipal No Confidence
Motion Rules, 2010 (hereinafter referred to as 'the Rules') has
submitted that an obligation is cast upon the Chief Councilor to fix
the date of special meeting and which power has been usurped by
the Executive Officer while issuing notice. According to learned



counsel the notice is to be issued within a week of service of requisition either by the Chief Councillor or by the requisitionists on the failure of the Chief Councillor to do so. He submits that in view of the legal position discussed the notice is illegal for the matter yet remained within the jurisdiction of the Chief Councillor until 12.2.2016. Learned counsel while making such submission also admits that the motion was not taken up in the special meeting held on 24.2.2016 and which has been adjourned until 24.3.2016.

Having heard learned counsel for the parties and in the circumstances where the meeting fixed on 24.2.2016 has been adjourned to 24.3.2016, in my opinion whatsoever be the irregularity in the notice circulated by the Executive Officer, Nagar Parishad, Lakhisarai as impugned at Annexure-2, stood exhausted.

The other argument of Mr. Kumar that the Executive Officer has no jurisdiction to circulate the notice is only taken to be rejected in view of the statutory provisions present. The powers and function of Chief Municipal Officer which includes the Chief Executive Officer stands discussed under section 27B and 28 of the Bihar Municipal Act, 2007 (hereinafter referred to as 'the Act') and it does not require any detailed discussion to hold that it



is his obligation to carry out the purposes of 'the Act' which would include the circulation of the requisition and issuance of notice. There is absolutely no infirmity in so far as this role has been discharged by the Executive Officer. Rule 2(i) of 'the Rules' casts a duty upon the Chief Councilor to fix the date of special meeting but in case the Chief Councilor fails to do so then this responsibility is transferred on the requisitionists under rule 2(iii) and whereupon the notice is to be issued by the Chief Municipal Officer.

In the circumstances discussed and for the present no cause for indulgence is made out and the writ petition is disposed of leaving it open for the petitioner to raise his grievance in case the motion goes against him.

(Jyoti Saran, J)

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