

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14783 of 2016

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1. Kiran Devi wife of Sri Radheshwar Prasad Singh Resident of Village-Parsauni Asha Patti, P.O.Karnaul, P.S. Sahebganj District-Muzaffarpur, Presently Chief Councillor, Nagar Panchayat Sahebganj, P.O. nad P.S. Sahebganj, District-Muzaffarpur

2. Bundel Paswan son of Late Lalan Paswan Resident of Village-Pratap Patti, P.O. Karaul, P.S. Sahebganj, District-Muzaffarpur, Presently Ward Councilor, Ward No. 7, Nagar Panchayat, Sahebganj, P.O. and P.S. Sahebganj, District-Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna

2. The principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna

3. The District Magistrate, Muzaffarpur District- Muzaffarpur

4. The Sub-Divisional Officer, West Muzaffarpur District- Muzaffarpur

5. The Executive Officer Nagar panchayat, Sahebganj, P.O. and P.S. Sahebganj, District- Muzaffarpur

6. Sri Vijay Kumar son of not Known to the Petitioner, Presently Deputy Chief Councilor, Nagar Panchayat, Sahebganj, P.O. and P.S. Sahebganj, District-Muzaffarpur

7. Sunaina Devi Wife of Ramdayal Prasad Resident of Village-Pratap Patti, P.O. Karaul, P.S. Sahebganj, District-Muzaffarpur

8. Niranjana Prasad Shah son of Suraj Prasad Shah Resident of Village-Pratap Patti, P.O. Karaul, P.S. Sahebganj, District-Muzaffarpur,

9. Jamil Akhtar son of Md. Salim Resident of Village-Pratap Patti, P.O. Karaul, P.S. Sahebganj, District-Muzaffarpur

10. Jaibun Nisha wife of Hanif Mian Resident of Village-Nawa Nagar Nizamat (Kazi Chak), P.O. Karnaul, P.S. Sahebganj, District-Muzaffarpur

11. Radha Devi wife of Shankar Ram Resident of Village-Nawa Nagar Nizamat (Makari Tola), P.O. Karnaul, P.S. Sahebganj, District-Muzaffarpur

12. Madhuri Mukul wife of Naresh Kumar Resident of Village-Pratap Patti, P.O. Karaul, P.S. Sahebganj, District-Muzaffarpur

13. Aashma Khatoon wife of not Known to the Petitioners, Presently Ward Councilors of Ward No. 1, Nagar Panchayat Sahebganj, P.O. and P.S. Sahebganj, District-Muzaffarpur

14. Ganesh Kumar Singh son of not Known to the Petitioner, Presently Ward Councilors of Ward no. 2, Nagar Panchayat Sahebganj, P.O. and P.S. Sahebganj, District-Muzaffarpur

15. Nilam Devi wife of not Known to the Petitioners, Presently Ward Councilors of Ward No. 4, Nagar Panchayat Sahebganj, P.O. and P.S. Sahebganj, District-Muzaffarpur

16. Rakesh Kumar son of not Known to the Petitioner, Presently Ward Councilors of Ward no. 5, Nagar Panchayat Sahebganj, P.O. and P.S. Sahebganj, District-Muzaffarpur

17. The State Election Commission (Municipality), Bihar, Patna through Secretary

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K.Manglam
Mr. Anita Kumari
For the State Mr. S. Kumar, AC to AAG 7
For the Commission Mr. Amit Shrivastava
Mr. Girish Pandey
For private respondent Mr Siaram Sahi
Mr. Rajani Kant
Mr. K.K.Singh

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 27-10-2016

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Heard Mr. Manglam for the petitioner, Mr. Siaram Sahi for the private respondents and Mr. Amit Srivastava for the State Election Commission (for short 'the Commission').

Counter affidavit is filed on behalf of respondent no.6.

The notice issued by the Executive Officer (Annexure-4) is called in question as being violative of section 2(iv) of No Confidence Motion Process Rules, 2010. The notice must contain the allegation and charges. By filing interlocutory application being I.A. No. 7211 of 2016, the petitioners have also challenged the proceeding of the special meeting of the Nagar Panchayat, Sahebganj dated 02.09.2016 held pursuant to the said notice (Annexure-6).

The contesting respondents have not seriously disputed the contention of the petitioners.

It is submitted on behalf of the petitioners that if the notice is not strictly in accord with the Rules then the subsequent events pursuant thereto would also vitiate.

The contesting respondents in the counter affidavit have not disputed the contention of the petitioners that the notice (Annexure-4) does not spell out the allegations and charges.

In view of the stand taken by the contesting parties, the writ application is allowed. The notice (Annexure-4) issued by the Executive Officer as well as the proceeding of the special meeting of the Nagar Panchayat, Sahebganj dated 02.09.2016 (Annexure-6 to I.A.No.7211 of 2016) is quashed. As a consequence thereof, the petitioner no.1 stands reinstated as Chief Councillor of the Nagar Panchayat, Sahebganj.

In view of the agreement at Bar, it is further observed that it will be open to the requisitionists to file a fresh requisition for convening the special meeting of the Nagar Panchayat, copies whereof shall be served simultaneously on petitioner no.1 as well as the respondent Executive Officer whereafter the Executive Officer will immediately place the matter before petitioner no.1 to fix a date of the special meeting of the Nagar Panchayat who shall fix a date of such special meeting within 05 days whereafter the respondent Executive Officer will issue a fresh notice strictly in accordance with the Rules annexing the copy of the requisition for convening the special meeting of the Nagar Panchayat wherein no confidence motion shall be placed, discussed and put to vote in accordance with law.

(Kishore Kumar Mandal, J)

HR/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	