

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13387 of 2015

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Kiswar Nasim wife of Md. Parvez Alam, resident of village- Kakodha, P.O. Bag Nagar, P.S. Mahalgaon, District- Araria, presently Up-Pramukh, Block Panchayat Samiti, Jokihat, District- Araria

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Panchayat Raj Department, Government of Bihar, Patna
3. The Director, Panchayat Raj Department, Government of Bihar, Patna
4. The District Magistrate, Araria, District- Araria
5. The Sub-Divisional Officer, Araria, District- Araria
6. The Block Development Officer-cum-Exexecutive Officer, Block Panchayat Samiti, Jokihat, District- Araria
7. Smt. Mumtaz Begum, wife of Md. Aarfin Presently Pramukh, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District- Araria
8. Abdul Qayum, son of not known to the petitioner,
9. Md. Isha, son of not known to the petitioner,
10. Nasir, son of not known to the petitioner,
11. Jahid Hussain, Son of not known to the petitioner,
12. Md. Shakir, son of not known to the petitioner,
13. Md. Helal, son of not known to the petitioner,
14. Md. Firoz, son of not known to the petitioner,
15. Mira Devi, wife of not known to the petitioner,
16. Nikhat Praveen, wife of not known to the petitioner,
17. Ajay Nand Thakur, son of not known to the petitioner,
18. Musahi Paswan, son of not known to the petitioner,
19. Nasima Khatoon, wife of not known to the petitioner,
20. Sultan Hajjam, son of not known to the petitioner,
21. Jinnati, wife of not known to the petitioner,
22. Salahuddin, son of not known to the petitioner,
23. Bajuddin, son of not known to the petitioner,
24. Ehsan, son of not known to the petitioner,
25. Sajda Begum, wife of not known to the petitioner,
26. Nargish, wife of not known to the petitioner,
27. Rashida, wife of not known to the petitioner,
28. Khurshida, wife of not known to the petitioner,
29. Saiyadi, wife of not known to the petitioner,
30. Farhat Begum, wife of not known to the petitioner,
31. Bibi Shakila, wife of not known to the petitioner,
32. Birendra Biswas, son of not known to the petitioner,
33. Murshida Begum, wife of not known to the petitioner,
34. Farhat Naj, wife of not known to the petitioner,
35. Kanchan Devi, wife of not known to the petitioner,
36. Shahin wife of not known to the petitioner,
37. Md. Salique, son of not known to the petitioner,
38. Tarique Anwar, son of not known to the petitioner,

39. Farhat Jahan, wife of not known to the petitioner,
 40. Anjuman Ara, wife of not known to the petitioner,
 41. Rajani Devi, wife of not known to the petitioner,

Respondent No. 8 to 44 are the elected Members of Block Panchayat Samiti, Jokihat through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District-Araria

.... Respondent/s

Appearance:

For the Petitioner/s : Ms. Anita Kumari, Advocate
 For the Respondent/s : Mr. Syed Arshad Alam, SC-3
 Mr. Mahtab Alam, A.C. to SC-3
 For the Private Respondent/s: Mr. Suraj Narain Yadav, Advocate
 Mr. Anil Kumar Anal, Advocate

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 18-01-2016

Heard the parties.

The petitioner happens to be the Up-Pramukh of Panchayat Samiti, Jokihat in the district of Araria and is aggrieved by initiation of the proceedings of no confidence moved against her by the members of the Panchayat Samiti.

The short issue raised by Mr. Manglam to question the initiation is that the notice convening the special meeting dated 28.8.2015 issued by the Executive Officer-cum-Block Development Officer, Jokihat in the district of Araria is not in tune with the provisions of Section 46(4) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') inasmuch as there is no clear 7 days gap found in between the notice dated 20.8.2015 and the date of special meeting fixed for 27.8.2015.

Notices being issued, the respondents have appeared and by filing counter affidavit it is stated that the petitioner upon gathering information about the motion resigned on 17.8.2015 only to withdraw the same on 23.8.2015 and which has delayed the issuance of notice, as necessary guidelines were sought in the circumstances existing.

Be that as it may, considering that the notice is apparently in the teeth of the statutory provisions of Section 46(4) of 'the Act' and which had been stayed by this Court while issuing notice on 25.8.2015, the Pramukh of the Panchayat Samiti, Jokihat shall be within his right and obligation as cast under Section 44(3)(i) of 'the Act' to fix a fresh date of meeting for consideration of the motion so moved against the petitioner and Executive Officer cum Block Development Officer, Jokihat shall circulate the notice bearing in mind the stipulation present in Section 44(3) (v) of 'the Act' read with Section 46(4) of 'the Act'.

The writ petition is allowed.

(Jyoti Saran, J)

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