

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15755 of 2017

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Urmila Devi wife of Shri Vinay Kalifa resident of Shankardih, Ward No. 7, P.O.
and P.S. Parsa, District Saran (Chapra)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development,
Government of Bihar, Patna.
2. The Bihar State Election Commission through the Election Commissioner,
Patna, Bihar.
3. The District Magistrate, Saran, Chapra.
4. The Executive Officer, Nagar Panchayat, Parsa Bajar, Saran.
5. Smt. Sangita Devi wife of Amar Nath Mahto, Councilor, Ward No. 1, Nagar
Panchayat, Parsa Bajar, Saran
6. Mrs. Aisa Khatoon, wife of Gaffar Mian, Councilor, Ward No. 2, Nagar
Panchayat, Parsa Bajar, Saran
7. Sri Bhagwan Manjhi, son of late Tilak Manjhi, Councilor, Ward No. 3, Nagar
Panchayat, Parsa Bajar, Saran
8. Sri Amar Nath Das son of Lakshman Das, Councilor, Ward No. 4, Nagar
Panchayat, Parsa Bajar, Saran
9. Sri Devendra Kuar, son of late Chandradeo Kuar, Councilor, Ward No. 5, Nagar
Panchayat, Parsa Bajar, Saran
10. Smt. Sumanti Devi wife of Binod Das, Councilor, Ward No. 6, Nagar
Panchayat, Parsa Bajar, Saran
11. Sri Ashok Kumar son of Chandeshwar Sah, Councilor, Ward No. 7, Nagar
Panchayat, Parsa Bajar, Saran
12. Sri Shiv Kumar Singh, son of late Binda Singh, Councilor, Ward No. 8, Nagar
Panchayat, Parsa Bajar, Saran



13. Mrs. Dhanwati Kumari wife of Sri Ranjan Kumar Prasad, Councilor, Ward No. 9, Nagar Panchayat, Parsa Bajar, Saran
14. Smt. Kishori Devi, wife of Sri Rupam Thakur, Councilor, Ward No. 10, Nagar Panchayat, Parsa Bajar, Saran
15. Smt. Chhathia Devi, wife of Bhukhal Rai, Councilor, Ward No. 11, Nagar Panchayat, Parsa Bajar, Saran
16. Sri Punit Mahto son of Harendra Mahto, Councilor, Ward No. 12, Nagar Panchayat, Parsa Bajar, Saran
17. Smt. Sangita Devi wife of Devnath Sah, Councilor, Ward No. 13, Nagar Panchayat, Parsa Bajar, Saran
18. Smt. Budhia Devi wife of Dharmnath Rai @ Dharmbeyas, Councilor, Ward No. 14, Nagar Panchayat, Parsa Bajar, Saran
19. Smt. Laldei Devi wife of Raghubansh Rai, Councilor, Ward No. 15, Nagar Panchayat, Parsa Bajar, Saran
20. Sri Shiv Prasad Rai son of late Jammu Rai, Councilor, Ward No. 16, Nagar Panchayat, Parsa Bajar, Saran
21. Mrs. Mahe Pravin wife of Mahd. Sahjad, Councilor, Ward No. 17, Nagar Panchayat, Parsa Bajar, Saran
22. Smt. Ranju Sukla wife of Sanjay Sukla, Councilor, Ward No. 18, Nagar Panchayat, Parsa Bajar, Saran
23. Sri Satendra Kumar Rai, son of Sri Sheyambabu Rai, Councilor, Ward No. 19, Nagar Panchayat, Parsa Bajar, Saran
24. Mr. Sainuddin son of Gafar Mian, Councilor, Ward No. 20, Nagar Panchayat, Parsa Bajar, Saran
25. Sri Krishna Rai son of Bishwanath Rai Councilor, Ward No. 21, Nagar Panchayat, Parsa Bajar, Saran



.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Bhushan Verma, Advocate
For the State	:	Mr. Kinkar Kumar, SC 9
For the SEC	:	Mr. Amit Shrivastava with Mr. Sanjeev Nikesh, Advocates
For the Respondent No. 11	:	Mr. Bindhyachal Singh with Mr. Satya Prakash, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 02-11-2017

Heard learned counsel for the petitioner; State; State Election Commission and learned counsel for the respondent no. 11, who is one of the requisitionists, and has *suo motu* appeared.

2. The petitioner has moved the Court for the following reliefs:

“ (i) To issue an appropriate writ/order/direction in the nature of certiorari for quashing the requisition filed on 11.10.2017 in the office of Nagar Panchayat Parsa Bajar by which 15 elected members of the Nagar Panchayat have made a requisition addressed to the petitioner to convene a special meeting of Nagar Panchayat, Parsa Bajar and to consider no confidence motion against the petitioner, (as contained in Annexure-2).

(ii) To issue an appropriate writ/order/direction in the nature of certiorari for



quashing the notice dated 23.10.2017 contained in letter No. 495 issued under the signature of respondent no. 4 whereby and whereunder the respondent No. 4 has been pleased to issue notice to the elected member/ward councilors of the Nagar Panchayat, Parsa Bajar for convening the special meeting for considering no confidence motion against the petitioner no. 03.11.2017 who is the chief councilor (As contained in annexure-4).

(iii) To issue an appropriate writ/order/direction in the nature of mandamus to declare and hold that if the law requires a particular thing to be done in a particular manner, it has to be done in the manner prescribed in accordance with law or not at all, in so far as it relates to convening special meeting for holding no confidence motion against the petitioner.

(iv) To issue an appropriate writ/order/direction in the nature of certiorari for quashing the notice dated 23.10.2017 (Anneuxre-4) whereby and where under the respondent no. 4 has been pleased to issue notice to the elected



members/ward concilors of the Nagar Panchayat Parsa Bajar for convening the special meeting under Sec 48 (3) of the Bihar Municipality Act 2007 taking into note that in the service report it has been mentioned that on 17.10.2017 the petitioner (chief councilor) has refused to receive the notice (requisition) without expiry of 7 days time.

(v) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

3. In sum and substance, the grievance of the petitioner is that she being the Chief Councillor of the Nagar Panchayat, Parsa Bajar in the district of Saran, a requisition for convening a Special Meeting for considering ‘No Confidence Motion’ against her not being served on her, a date has been fixed by the requisitionists themselves, which is tomorrow i.e., 3rd November, 2017 at 11:00 A.M.

4. Learned counsel for the petitioner submitted that though a requisition was submitted in the office on 11.10.2017 but the same was never put up before the petitioner and thus the requirement of law that such requisition be given to the Chief Councillor has not been satisfied in terms of the statutory provisions of Rule 2 (i) of the



Bihar Municipal No Confidence Motion Process Rules, 2010. It was submitted that only after the notice for meeting was communicated to the petitioner on 03.10.2017, she became aware of such requisition having been submitted for calling the Special Meeting. Learned counsel submitted that the issue being governed by the statute, there has to be strict compliance of the provisions and moreover the requirement of giving the requisition to the Chief Councillor is for the purpose that the person is made aware of the reasons why 'No Confidence Motion' is being brought so that he or she may be prepared with a defence and accordingly place the matter in the meeting. At this juncture, learned counsel took a categorical stand and submitted that she, now being aware of the requisition, will fix a date in terms of the statutory requirement.

5. On a query of the Court to learned counsel appearing for the respondents as to whether such arrangement was acceptable, the stand is that if it is within a reasonable period, they may not be averse to slight postponement of the date, just to get over any unnecessary litigation, but not admitting to the fact that requisition was not served on the petitioner. The Court finds such stand to be reasonable.

6. Learned counsel for the petitioner also agrees to such proposition. However, he submitted that the petitioner be given



liberty to fix such date in terms of the relevant statutory provisions deeming that the requisition was served on her as of today. The Court finds such stand to be totally unreasonable.

7. Though the Court could very well have gone into the issue as to whether the petitioner was at least aware of the requisition and the contents thereof, but in view of there being a broad consensus which can facilitate the disposal of the present writ application, such aspect is not being gone into.

8. Accordingly, on the basis of there being consensus at the bar and for the ends of justice and also balancing the equities, the writ petition stands disposed off with a direction to the Chief Executive Officer, Nagar Panchayat, Parsa Bajar in the district of Saran (respondent no. 4) to issue notice to the Councillors of Nagar Panchayat, Parsa Bajar in the district of Saran by tomorrow i.e., 3rd November, 2017 fixing 13th November, as has been agreed by learned counsel for the petitioner, as the date fixed for the meeting to be held at 11:00 A.M. The court makes it clear that the date 13th November, shall be deemed to have been the date fixed by the petitioner for such purpose as per the requirement of the statute and only for the purpose of avoiding delay, the present order is being passed.

9. Notice shall be sent through Registered post as well as



through office peon and endorsement shall be made with regard to the notice having been served on the parties in the presence of witnesses.

10. As a consequence, the requisition made for convening of the said meeting on 3rd November, 2017 at 11:00 A.M., copy of which is Annexure-4 to the writ petition, stands set aside.

11. Learned counsel for the State shall communicate the order to the District Magistrate (respondent no. 3) for informing the respondent no. 4 of the present order.

12. Learned counsel for the State Election Commission shall also ensure that the order is complied with.

13. It is further clarified that the exercise would be based on the same requisition, copy of which is Annexure-2 to the writ petition dated 01.10.2017, and only a fresh notice has to be issued indicating the date 13th November, 2017 for the said meeting.

(Ahsanuddin Amanullah, J)

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