

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14578 of 2018

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Prabhakar Kumar son of Ram Balak Singh, Resident of Village-Karande, Gram Panchayat-Siyami, Police Station-Kande, Block-Chewara, District-Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna.
2. The Director, Department of Panchayati Raj, Govt. of Bihar, Patna.
3. The District Magistrate, Sheikhpura.
4. Deputy Development Commissioner, Sheikhpura.
5. The District Panchayat Raj Officer, Sheikhpura.
6. The Sub-Divisional Officer, Sheikhpura, District-Sheikhpura.
7. The Executive Officer-Cum-Block Development Officer, Chewara, District-Sheikhpura.
8. The State Election Commission, Bihar through its Secretary, Sone Bhawan, Birchand Patel Path, Patna.
9. Smt. Neetu Kumari, W/o not known, Panchayat Samiti-Chewara, Block Chewara, District-Sheikhpura.
10. Ravi Kumar son of not known, Panchayat Samiti-Chankandra, Block Chewara, District-Sheikhpura.
11. Jitendra Kumar son of not known, Panchayat Samiti-Siyani, Block Chewara, District-Sheikhpura.
12. Bideshi Manjhi son of not known, Panchayat Samiti-Chattiyara, Block Chewara, District-Sheikhpura.
13. Mukesh Kumar son of not known, Panchayat Samiti-Chattiyara, Block Chewara, District-Sheikhpura.
14. Dewanti Devi W/o Hare Ram Bharti, Panchayat Samiti-Lohan, Block Chewara, District-Sheikhpura.
15. Lalita Devi W/o Sharvan Choudhary, Panchayat Samiti-Lahuna, Block Chewara, District-Sheikhpura.
16. Sunita Devi W/o Sh. Ramswaroop Ravidas, Resident of Village-Kemra, P.O. +



P.S.-Ariari, Distirct-Sheikhpura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy, Advocate
For the State : Mr. Kumar Alok- S.C.-7
For Respondent no.8 : Mr. Amit Srivastava, Advocate
: Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 03-08-2018

The petitioner is Up-Pramukh of Chewara Panchayat Samiti (for short 'the Samiti'). Five Members of the Samiti presented a requisition before the Pramukh for convening special meeting for consideration of want of confidence expressed by them in the Pramukh on 25.06.2018. Since the Pramukh failed to convene such meeting on the date falling within 15 days of such requisition, more than 1/3rd of the total directly elected members fixed 19.07.2018 as the date for such meeting and requested the Executive Officer to give notice to the Members and to take such action as may be necessary to convene the meeting whereafter the Executive Officer issued notice to the Pramukh, Up-Pramukh and Members of the Samiti informing them that the special meeting shall be held on 19.07.2018 at 11:00 a.m.

2. In the said meeting, in presence of Supervisor appointed by the District Magistrate the business of special meeting was transacted. The charges leveled against the Pramukh were read over



and explained to the Members who were present in the meeting. An opportunity was provided to the Members present in the meeting to have discussion on the charges brought against the Pramukh. All the Members present in the meeting supported the charges leveled against the Pramukh. Thereafter, the motion was put to vote. After the Members exercised their right to vote, votes were counted. All the votes casted by the Members were found to be valid and were exercised in support of the charges and thereafter, the Executive Officer declared that the motion brought by the Members of the Samiti expressing want of confidence in the Pramukh got passed.

3. Mr. Jitendra Kumar Roy, learned counsel appearing for the petitioner has challenged in the present application the notice issued under the signature of the Executive Officer vide memo no. 609 dated 11.07.2018, whereby the special meeting of the Samiti was convened on 19.07.2018 as required by more than 1/3rd Members of the Samiti. He has also challenged the resolution dated 19.07.2018 whereby the motion brought against the Pramukh has been declared to be passed. The contention of the learned counsel for the petitioner is that the notice dated 11.07.2018 issued by the Executive Officer does not contain charges against the Pramukh. His further contention is that it is also not mentioned in the notice that the special meeting is to be convened for considering the want of confidence in the Pramukh of



the Samiti. He has further pleaded that for the same reason the resolution taken on 19.07.2018 is also bad. He urged that the resolution also speaks about the letter no. 620 dated 16.07.2018 and if that letter is taken into account no seven days clear notice was given prior to convening the special meeting.

4. On the other hand learned counsel appearing for the State submitted that there is no merit in the writ application filed by the petitioner. He contended that more than 1/3rd Members had expressed want of confidence in the Pramukh and, as required under section 44(3) of the Bihar Panchayat Raj Act, 2006 (for short 'the Act'), a requisition was sent to the Pramukh for convening special meeting, as the Members has lost confidence in him, but he failed to convene such meeting within fifteen days of requisition and, thereafter, the Members fixed the date for such meeting and requested the Executive Officer to give notice to the Members. He contended that pursuant to the request made by the requisite number of Members, the special meeting was convened in which the motion was passed by voice vote. He argued that the Pramukh against whom no confidence motion was brought has not approached this court rather the Up-Pramukh has filed the instant writ petition, who has no locus standi in the matter. He pleaded that the petitioner has conveniently brought on record the first page of the notice dated 11.07.2018 and



has not annexed the enclosures. He urged that from the resolution of the meeting dated 19.07.2018, it would be manifest that charges were brought against the Pramukh and those charges were read over and explained to the Members present and after due deliberation the motion was put to vote and was unanimously passed. He contended that admittedly notice was issued to the Members on 11th July, 2018, hence, the plea that seven clear days notice was not given to the Members is also erroneous.

5. I have heard learned counsel for the parties. I find substance in the submissions made by the learned counsel for the State. Admittedly, requisition was presented to the Pramukh for convening a special meeting. Since he failed to convene the meeting within the stipulated period of fifteen days, the 1/3rd Members of the Samiti themselves fixed the date and requested the Executive Officer to issue notice to the Pramukh, Up-Pramukh and Members of the Samiti informing them the date scheduled for holding the special meeting pursuant to which vide letter no. 609 dated 11.07.2018, Pramukh, Up-Pramukh and Members were informed about the scheduled date of special meeting. The requisition dated 11.07.2018 would further indicate that enclosure in three separate sheets of paper were also annexed to the notice, which has deliberately not been placed on record. The resolution further indicates that charges were



explained to the Members present and, after discussion and deliberation, the motion was put to vote. It is surprising that the Pramukh, who has been removed from his post has not approached this Court, but the Up-Pramukh has challenged the notice as well as resolution taken against the Pramukh. It has rightly been pointed out by the learned counsel for the State that Up-Pramukh has no locus standi in the matter. Moreover, I do not see any illegality in notice, as it was handed over to the Members on 11th July, 2018 and the meeting was held on 19th July, 2018. Therefore, it cannot be argued that mandatory requirement of seven clear days time was not given to the Members of the Samiti.

6. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.08.2018
Transmission Date	

