

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14900 of 2018

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1. Uma Shankar Thakur, Son of Ramswarup Thakur, Resident of Village- Kenari, P.O- Itwan, P.S- Mohanpur, District- Gaya at present Pramukh of Mohanpur Block, District- Gaya.
 2. Sridhar Narayan, Son of Sri Deonandan Prasad, Resident of Village- Sindhugarh, P.O- Ambatari, P.S- Mohanpur, District- Gaya at present Deput Pramukh Mohanpur Block, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Rural Development Department, Govt. of Bihar Patna.
2. The Director, Panchayati Raj, Govt. of Bihar, Patna.
3. District Magistrate, Gaya, District- Gaya.
4. Sub Divisional Officer, Sherghati, District- Gaya.
5. District Panchayat Raj Officer, District- Gaya.
6. Block Development Officer-cum-Executive Officer, Mohanpur, District- Gaya.
7. Kiran Devi, Wife of Vijay Yadav.
8. Rubi Devi, Wife of Bindeshwar Majhi.
9. Indu Devi, Wife of Rajendra Paswan.
10. Sabra Khatoon, Wife of Firoz Alam.
11. Renu Kumari, Wife of Ajeet Sao.
12. Minta Devi, Wife of Ajeet Kumar.
13. Sunita Kumari, Wife of Arun Kumar.
14. Nagina Devi, Wife of Rupesh Kumar.
15. Munna Yadav, Son of Chathu Yadav.
16. Rajesh Das, Son of not known.
17. Vijay Choudhary, Son of not known.
18. Chandeshwar Das, Son of not known.
19. Santosh Kumar, Son of not known.
20. Raj Kumar Choudhary, Son of Late Jagdish Choudhary.
21. Ramakant Paswan Son of not known.
22. Deepak Kumar Singh, Son of not known.
23. Bishwash Singh, Son of not known.
24. Sanjay Kumar Akela, Son of not known.
25. Nikhat Jahan, Wife of Minhaz Khan.
26. Manju Devi, Wife of Brijnandan Prasad.
27. Subedar Yadav, Son of Late Bandho Yadav.
28. Sajiya Devi, Wife of Chandrika Manjhi sl. No. 7 to 28 through Block Development Officer-cum-Executive Officer, Mohanpur, District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shardanand Mishra, Advocate
: Mr. Deepak Kumar, Advocate.
For the Respondent/s : Mr. Sriram Krishna, A.C. to S.C. 11.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 01-08-2018

Heard learned counsel for the petitioners and learned counsel for the State.

2. This writ petition has been filed by the petitioners for quashing the letter bearing memo no. 933 dated 20.07.2018 issued under the signature of the Executive Officer-cum-Block Development Officer, Mohanpur by which he has requested the petitioners to fix the date of special meeting as some of the members of the Panchayat Samiti had filed a requisition for such a special meeting.

3. Learned counsel for the petitioners submitted that on 19.07.2018 15 out of total strength of 24 members of the Panchayat Samiti of Mohanpur Block presented a requisition expressing want of confidence against them and requested the Pramukh to commence a special meeting for consideration of their requisition. He submitted that since signature of some of the requisitionist members were forged and fabricated, the petitioner no. 1 (Pramukh) did not summon the special meeting, but ignoring the discrepancy in the requisition, the Executive Officer requested the petitioners vide letter no. 933 dated 20.07.2018 to convene a special meeting for consideration of want of confidence expressed against the petitioners. He urged that during pendency of the writ petition, vide memo no. 953 dated 27.07.2018,



the Executive Officer has convened a special meeting on 06.08.2018. He has also issued notice in this regard to the members of the Panchayat Samiti. He submitted that the Executive Officer has not acted fairly in convening the special meeting ignoring the fact that the requisition presented before the Paramukh was under the forged and fabricated signature of some of the members.

4. On the other hand, learned counsel for the State submitted that there is no illegality either in the presentation of the requisition by the elected members of the Panchayat Samiti or in the request made by the members of the Panchayat Samiti to convene the special meeting for consideration of no confidence motion. He contended that since the petitioners failed to summon the special meeting, more than 1/3rd of total directly elected members fixed the date for such meeting and required the Executive Officer to give notice to the members in respect of convening the special meeting pursuant to which the special meeting was convened by the Executive Officer.

5. I have heard learned counsel for the parties and carefully perused the record.

6. I find substance in the submissions made by the learned counsel for the State. Apparently, there was a requisition to convene a special meeting by more than 1/3rd members, as required under



Section 43 of the Bihar Panchayat Raj Act, 2016. It is also apparent that after receiving the requisition, the petitioner no. 1 being the Pramukh failed to convene a special meeting. In the writ petition, an excuse has been taken by the petitioners that signature of some of the requisitionist members was forged. If that was so, the same could have been discussed and considered in the special meeting, but refusing to convene a special meeting on that ground, without there being any cogent material in support of such conclusion cannot be approved. If such plea for not convening special meeting would be accepted, it would be very easy for any Pramukh, who has lost confidence of majority of members, to continue on the post and defer special meeting.

7. Since the petitioners failed to convene the special meeting within the time stipulated under the Act, no illegality can be found with the action of the one third of the total directly elected members in fixing the date for such meeting and directing the Executive Officer to give notice to the members and to take such action as may be necessary to convene the meeting. Moreover, no challenge has been made in the instant writ petition whereby the Executive Office is said to have convened a special meeting on 06.08.2018 vide memo no. 953 dated 27.07.2018.

8. Hence, at this stage the Court is not expressing any



opinion on the legality or otherwise of memo no. 953 dated 27.07.2018. However, as far as the prayer made in the instant writ petition is concerned, I see no merit in it.

9. Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/Sneha

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

