

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13812 of 2018

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Bibi Hazara Khatoon @ Bibi Hajara Khatun, Wife of Prawaz Akhtar, Resident of village - Kurma, P.S. - Dhoraiya, District - Banka.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Panchayati Rajya Department, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Rajya Department, Government of Bihar, Patna.
3. The District Magistrate, Banka.
4. The Executive Officer-cum-Block Development Officer, Dhoraiya Block, District - Banka.
5. The Block Co-operative Officer, Dhoraiya, District - Dhoraiya, Gram Panchayat Ghasiya, P.S. - Dhoraiya, District - Banka.
7. Md. Ali Hasan, son of Md. Laahi Baksh, Village - Singarpur, P.S. - Dhoraiya, District - Banka.
8. Guriya Devi wife of Sanjeev Kumar Singh, Village - Mahemmedpur, P.S. - Dhoraiya, District - Banka.
9. Sanju Devi wife of Late Mukesh Sah, Village - Lakshmikitta, P.S. - Dhoraiya, District - Banka.
10. Bibi Jubeda Khatoon, wife of Md. Mazid, village - Mahila, P.S.- Dhoraiya, District - Banka.
11. Dilip Kumar Yadav, son of Yogendra Yadav, Village - Manikpur, P.S. Dhoraiya, District - Banka.
12. Uday Yadav, son of Singeshwar Yadav, Village - Batsar, P.S. - Dhoraiya, District - Banka.
13. Gautam Kumar Singh, son of Ramni Mohan Singh, Village - Chandradih, P.S. - Dhoraiya, District - Banka.
14. Samir Kumar Himanshu, son of Gulabi Manda,l Village - Gangadouri, P.S. Dhoraiya, District -Banka.
15. Munilal Shah, Son of Suresh Shah, Village Phulbarhiya, P.S. -Dhoraiya, District - Banka.
16. Kiran Devi wife of Nawal Kishor Rai Village - Dhanrasa, P.S. - Dhoraiya, District - Banka.
17. Chandni Devi wife of Kaushal Kishor Yadav, Village - Kushamaha, P.S. - Dhoraiya, District - Banka.
18. Bibi Aamana Khatoon, wife of Md. Mustak ,Village - Basatpur, P.S.- Dhoraiya, District - Banka.
19. Bulbul Devi, wife of Indradev Singh, Village - Rangoan, P.S.- Dhoraiya, District - Banka.
20. Ranju Devi, wife of Kantlal Yadav, Village - Bonarchak, P.S. -Dhoraiya, District - Banka.
21. Husana Ara, wife of Md. Khusirad, Village - Kathbangaon, P.S. - Dhoraiya, District - Banka.
22. Manoj Kumar Manda,l son of Chandra Kishor Mandal, Village - Longay, P.S. - Dhoraiya, District - Banka.



23. Ruhi Pravin, wife of Md. Iqbal, Village - Tetariya, P.S. Dhoraiya, District - Banka.
24. Dasrath Sharma, son of Shukhdeo Sharma, Village - Jautha, P.S. - Dhoraiya, District Banka.
25. The State Election Commission through the Commissioner, State Election Commission, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Balram Kapri, Advocate

For the Respondent-State: Mr. Kumar Alok- SC-7

For the Respondent-SEC : Mr. Amit Shrivastava, Advocate

Mr. Girish Pandey, Advocate

For the Respondent No.6 to 24:Mr. Sanjeev Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-08-2018

Heard learned counsel for the petitioner and learned counsel for respondent nos. 6 to 24.

2. In the present writ petition the petitioner has prayed for quashing the requisition of no confidence motion dated 09.07.2018 brought by 19 members of the Panchayat Samiti, Dhoraiya against the petitioner, the Pramukh of the Panchayat Samiti under Section 44(3) of the Bihar Panchayat Raj Act, 2006 (for short 'the Act') on the ground that the said requisition was not served to the petitioner by the members of the Panchayat Samiti rather the same was served to the Block Co-operative Officer, Dhoraiya, who sent the requisition to the Block Development



Officer-cum-Executive Officer, Dhoraiya. Later on, the Executive Officer served the same to the petitioner on 12.07.2018. The petitioner has further prayed for quashing the letter No.637 dated 13.07.2018 issued by the respondent-Executive Officer whereby in exercise of powers under Section 44(3) of the Act, he has fixed the date of the special meeting to discuss no confidence motion on 23.07.2018.

3. On the submission made by the learned counsel for the petitioner that the respondent-Executive Officer had acted in highly illegal and arbitrary manner by issuing the letter dated 13.07.2018 whereby he had fixed the date for holding special meeting in order to discuss no confidence motion against the petitioner, this Court while issuing notice to respondent nos. 6 to 24 vide order dated 20.07.2018 had stayed the operation of the aforesaid letter No.637 dated 13.07.2018 issued under the signature of the Executive Officer, Dhoraiya summoning special meeting to discuss no confidence motion against the petitioner scheduled to be held on 27.03.2018. While arguing the case on 20.07.2019, it was submitted by the learned counsel for the petitioner that the requisition for summoning the special meeting was not served by the elected members of the Panchayat Samiti to the petitioner and the same was communicated to the petitioner on



12.07.2018 by the Executive Officer. It was also argued that the Executive Officer was not justified in issuing letter dated 13.07.2018 whereby he had fixed the date for holding special meeting on 23.07.2018.

4. After service of notice, a counter affidavit has been filed on behalf of the respondent nos.6 to 17 and 19 to 24, in which it has been categorically stated that since the petitioner had failed to perform her duties as Pramukh on 06.07.2018, 19 members of Panchayat Samiti went to meet her and submit the requisition for convening the special meeting to consider no confidence motion against her but, she avoided to meet the requisitionists and then the requisitionists submitted the requisition in the office of Pramukh, which was duly received by the office clerk on 06.07.2018 itself. A copy of the requisition was also submitted to the Executive Officer on 09.07.2018. Thereafter, at the request of the Executive Office, the petitioner herself fixed the date of special meeting on 23.07.2010 and vide letter dated 12.07.2018 requested the Executive Officer to inform all the members of the Panchayat Samiti about fixation of the date of special meeting. The respondents have also annexed the aforesaid letter dated 12.07.2018 as Annexure-D to the counter affidavit, which was obtained by them under the Right to Information Act



through which the petitioner had fixed the date of special meeting on 23.07.2018.

5. Being confronted with the assertions made in the counter affidavit, learned counsel appearing for the petitioner submitted that due to lack of proper communication a wrong assertion was made in the writ petition that the Executive Officer himself took a decision and fixed the date of special meeting. He submitted that due to inadvertence it was erroneously pleaded that the special meeting was convened by the Executive Officer. He contended that the letter dated 12.07.2018 as contained in Annexure-D to the counter affidavit was never brought to his notice.

6. Having heard learned counsel for the parties, this Court is of the view that the petitioner has not approached this Court with clean hands. She has made false statement on oath in order to obtain favourable order. The conduct of the petitioner is reprehensible. It is because of false assertions made on oath as well as false submissions made by the counsel while arguing the case, this Court was misled and, by an order dated 20.07.2018, the special meeting scheduled to be held on 23.07.2018 was stayed.

7. In **Muthu Karuppan v. Parithi Ilanvazhuthi and Ars.** [(2011) 5 SCC 496], the Supreme Court expressed that



filing of false affidavit should be effectively curbed with a strong hand. The Court observed: *“Giving false evidence by filing false affidavit is an evil which must be effectively curbed with a strong hand. Prosecution should be ordered when it is considered expedient in the interest of justice to punish the delinquent, but there must be a prima facie case of “deliberate falsehood” on a matter of substance and the court should be satisfied that there is a reasonable foundation for charge”*.

8. Though, I am satisfied that the petitioner has deliberately made false statements on oath on a matter of substance. Since she is a lady, I am of the opinion that instead of prosecuting her criminally, it would be appropriate to award exemplary cost for filing false affidavit, misleading the Court and wasting the time of the Court.

9. Accordingly, the writ petition is dismissed with a cost of Rs.50,000/- (rupees fifty thousand) to be deposited by the petitioner within thirty days from today with the Bihar State Legal Services Authority. In case the petitioner fails to deposit the cost within stipulated period of thirty days, the District Magistrate shall be at liberty to realize the same from the petitioner as arrear of land revenue.

10. The interim order of stay is vacated. The



Executive Officer, Dhoraiya is directed to summon a special meeting for consideration of no confidence motion in accordance with law. It is made clear that due to fraudulent act of the petitioner, the Executive Officer shall not be required to request the Pramukh for fixing the date of special meeting. He shall convene such meeting on a date falling within fifteen days of receipt of a copy of this order and inform all the elected members including the petitioner regarding the date fixed for the meeting.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2018
Transmission Date	NA

