

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13154 of 2019**

=====

Sapna Sarika W/o Sanjeo Kumar, Resident of Maa Bhagwati Niwas, Road No. 1, Near Abhay Carbon Factory Shivpuri, P.S.- Shastrinagar, Distt.- Patna, Presently residing at Chairman Road, Nabinagar, P.S.- Nabinagar, Distt.- Aurangabad. At present Chief Councilor Nagar Panchayat, Nabinagar, Distt.- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban and Housing Development Department, Govt. of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Sub-Divisional Officer, Aurangabad
4. The Nagar Panchayat Nabinagar through its Executive Officer, Nagar Panchayat Nabinagar, Distt.- Aurangabad
5. Smt. Aarti Devi W/o not known to the petitioner, at present Dy. Chief Councilor, Nagar Panchayat Nabinagar, Aurangabad
6. Smt. Premlata Kumari W/o not known to the petitioner, Ward Councilor of Ward No. 10, Nagar Panchayat Nabinagar, Aurangabad
7. Smt. Chanda Devi W/o not known to the petitioner, Ward Councilor of Ward No. 06, Nagar Panchayat Nabinagar, Aurangabad
8. Smt. Sabita Devi W/o not known to the petitioner, Ward Councilor of Ward No. 14, Nagar Panchayat Nabinagar, Aurangabad
9. Smt. Gunja Singh W/o not known to the petitioner, Ward Councilor of Ward No. 13, Nagar Panchayat Nabinagar, Aurangabad
10. Smt. Prabha kunwar W/o not known to the petitioner, Ward Councilor of Ward No. 12, Nagar Panchayat Nabinagar, Aurangabad
11. Smt. Sharda Devi W/o not known to the petitioner, Ward Councilor of Ward No. 11, Nagar Panchayat Nabinagar, Aurangabad
12. Sri Ajay Kumar Sinha S/o not known to the petitioner, Ward Councilor of Ward No. 08, Nagar Panchayat Nabinagar, Aurangabad
13. Sri Raman Kumar S/o not known to the petitioner, Ward Councilor of Ward No. 01, Nagar Panchayat Nabinagar, Aurangabad
14. Sri Ajay Prasad S/o not known to the petitioner, Ward Councilor of Ward No. 03, Nagar Panchayat Nabinagar, Aurangabad
15. Sri Yogendra Singh S/o not known to the petitioner, Ward Councilor of Ward No. 09, Nagar Panchayat Nabinagar, Aurangabad
16. Sri Gulam Mohammad S/o not known to the petitioner, Ward Councilor of Ward No. 02, Nagar Panchayat Nabinagar, Aurangabad

Respondent Nos. 5 to 16 are represented through the Executive Officer, Nagar Panchayat Nabinagar, Aurangabad.

... .. Respondents



---

**Appearance :**

|                      |   |                                                              |
|----------------------|---|--------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Y. V. Giri, Sr. Advocate<br>Mr. Sanjeev Nikesh, Advocate |
| For the Respondent/s | : | Mr. S. B. K. Manglam, Advocate                               |
| For the Re.No. 4     | : | Mr. Anil Kumar, Advocate<br>Mr. Madanjeet Kumar, Advocate    |

---

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      02-07-2019                      The petitioner in the present case is seeking a writ of Certiorari to quash and cancel the Letter bearing No. 496 dated 27.06.2019 by which the Executive Officer, Nagar Panchayat, Nabinagar (respondent no. 4) has issued notice for Special Meeting to consider the No Confidence Motion against the petitioner. The petitioner has also prayed for a Mandamus directing the respondent authorities specially respondent no. 4 to produce the requisition dated 10.06.2019 before this Court and upon production of the same the requisition be quashed / set aside.

It is the case of the petitioner that she being the Chief Councilor of the Nagar Panchayat had no knowledge of the requisition against her because the same was never placed before her in terms of Rule 2 (i) of the Bihar Municipal No Confidence Motion Process Rules, 2010 (hereinafter referred to as the 'No Confidence Motion Rules, 2010'). The petitioner claims that she got surprised to see the notice of the Special Meeting issued vide Letter No. 496 dated 27.06.2019 under the



signature of respondent no. 4 and in the name of respondent no. 12 because this requisition was never presented to her.

By filing supplementary affidavit, the petitioner states that having received the copy of notice of Special Meeting (Annexure P/1) she tried to find out the requisition dated 10.06.2019 and she got the copy of requisition on 29.06.2019. The same has been brought on record as Annexure 'P/2'. It is her contention that Annexure 'P/2' was received by the Executive Officer, therefore, it is a case of violation of the mandatory provision of Rule 2(i) of the No Confidence Motion Rules, 2010. It is submitted that in the case of routing through 'No Confidence Motion' it is submitted that a learned coordinate Bench of this Court has in the case of Diwakar Kumar Singh Vs. The State of Bihar and Others (C.W.J.C. No.2036 of 2016 as contained in Annexure 'P/3') took a view that a requisition though addressed to the Chief Councilor if routed through the Executive Officer of the Municipality, the same would be invalid. Learned co-ordinate Bench held in the said case that the requisition addressed to the Chief Councilor was routed through the Executive Officer of the Municipality, therefore, it was fit to be quashed.

Mr. Y. V. Giri, learned Senior Counsel representing



the petitioner has taken this Court through Annexure 'P/2' to contend that the notice is though addressed to the Chief Councilor but it was submitted in the office of the Executive Officer on the same day i.e. 10.06.2019, therefore, it is a case of routing the No Confidence Motion.

Mr. Mangalam has appeared on behalf of some of the requisitionists. It is the case of the requisitionists that on 10.06.2019 itself a requisition signed by eight Ward Councilor of the Nagar Panchayat was sought to be served upon the Chief Councilor and for this purpose all the signatory Ward Councilors had gone to the office of the writ petitioner situated in the headquarter of the Nagar Panchayat at 10:30 A.M. but she was not available in her office. It is stated that the requisitionists waited for her arrival at in the office till 01:30 P.M. but when the petitioner did not come to her office, the original requisition was submitted by the requisitionists in the office of the Nagar Panchayat on 10.06.2019 itself. He has taken this Court through Annexure 'R-1' which is a service report of the no confidence notice by the peon showing that the attempt made to serve the notice upon the petitioner failed as she was not found in her house.

It is further stated that the requisitionists had sent a



photocopy of their requisition to the writ petitioner on her local address and on her Patna address also as mentioned in the letter pad through the speed post. The Executive Officer had also forwarded requisition of the petitioner through the Peon but when it could not be served upon the petitioner, the same was again sent to her on 14.06.2019. The requisition was sent on her address by speed post. Mr. Mangalam has brought to the notice of this Court Annexure 'R-6' and 'R-6/1' as also 'R-7' to submit that these are the track consignment report obtained from the website of the Indian Post which would show that the requisition sent to the petitioner on 10.06.2019 was delivered to her on 12.06.2019. It is submitted that it is not a case where the requisition was addressed to the petitioner through the Executive Officer.

Learned counsel submits that while taking note of the conduct of the petitioner that she was avoiding service of the requisition, this Court would also appreciate the fact that on the same day i.e. 10.06.2019 the requisitionists had sent a copy of the requisition by post on the address of the petitioner and, therefore, the provision of Rule 2(i) of the No Confidence Motion Rules, 2010 stands complied with. It is submitted that despite service of requisition on 12.06.2019 when the petitioner



did not take any step to fix the special meeting within the prescribed period, the requisitionists rightly fixed the date of the Special Meeting and sent it to the Executive Officer who has issued notice of No Confidence Motion to the Ward Councilors.

Learned counsel has referred Annexure 'H' to the counter affidavit of respondent no. 4 to show the circumstances under which the requisitionists fixed the date of the Special Meeting and requested the Executive Officer, Nagar Panchayat, Nabinagar to issue notice of the Special Meeting so that it may be served upon all before 72 hours of the date and time of the meeting.

Having heard learned counsel for the parties and on perusal of the record, this Court is of the view that the plea of routing through the notice as raised on behalf of the petitioner is not acceptable. There are sufficient materials on record to show that on 10.06.2019 itself the copy of the requisition was sent to the petitioner and she had in fact received the same on 12.06.2019. There are other averments in the counter affidavit which say that attempts were also made by the Ward Councilors to serve the notice personally upon the petitioner but that could not happen because the petitioner was not available.

In the given facts and circumstances of the case, this



Court is unable to agree with the submission of the learned Senior Counsel for the petitioner that it will be a case of violation of Rule 2(i) of the No Confidence Motion Rules, 2010.

The writ application has, thus, no merit, it is dismissed accordingly.

**(Rajeev Ranjan Prasad, J)**

avin/-ved

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

