

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18976 of 2019

1. Devendra Prasad Singh, Aged about 73 years, Male, S/o Late Thag Singh, Resident of Village- Kaithvaliya, P.S.- Gopalganj, District- Gopalganj.
2. Suresh Bhagat Chaurasiya, Aged about 69 years, Male, S/o Late Phulena Bhagat Chaurasiya, Saraya Ward No. 1, P.S.- Gopalganj, District- Gopalganj.
3. Malti Devi, Aged about 64 years, Female, D/o Vidya Sagar Singh, resident of Village- Hanuman Ghari, Ward No. 6, P.S.- Gopalganj, District- Gopalganj.
4. Sudama Raut, Aged about 59 years, Male, S/o Late Vishwanath Raut, Residence of Village- Ward No. 8, Hajiyapur, P.S.- Gopalganj, District- Gopalganj.
5. Puja Kumari, Aged about 35 years, Female, W/o Prabhakar Tiwari, resident of Mohalla- Rajendra Nagar, Ward No. 22, P.S.- Gopalganj, District- Gopalganj.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The District Magistrate, Gopalganj.
4. The Executive Officer, Nagar Panchayat, Gopalganj.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Prabhakar Singh, Advocate
For Nagar Parishad, Gopalganj:		Mr.Ravi Bhushan Verma, Advocate
For the Intervener	:	Mr. P.K. Shahi, Sr. Advocate
		Mr. Mukesh Kumar, Advocate
For the Respondent/s	:	Mr.Subhash Pd. Singh (GA3)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 18-11-2019 Interlocutory Application No. 01 of 2019 has been filed challenging the resolution dated 13.09.2019 (as contained in Annexure '4' to the Interlocutory Application) by which no confidence motion brought against the Chief Councilor has been declared 'failed'.



Learned counsel for the petitioner submits that since this development has taken place during pendency of the writ application, I.A. No. 01/2019 may be allowed and be treated as part and partial of the writ application.

Learned counsel for the State and the Nagar Panchayat, Gopalganj are present and have no objection to I.A. No. 01/2019 be allowed and treated as part and partial of the writ application with contest.

It is their further submission that this writ application has become infructuous inasmuch as it would appear from Annexure '4' to I.A. No. 01/2019 that the no confidence motion brought against the Chief Councilor has failed because the no confidence motion was required to be passed by a majority of the total number of councilors and not by the majority of the total number of councilors present and voting.

I.A. No. 01 of 2019 is allowed. Let it be treated as part and partial of the writ application.

This court finds that Sub-Section (4) of Section 25 of the Bihar Municipal Act, 2007 clearly stipulates that the Chief Councillor/Deputy Chief Councillor may be removed



from office by a resolution carried by a majority of the whole number of Councillors holding office for the time being at a special meeting to be called for this purpose in the manner prescribed, upon a requisition made in writing by not less than one-third of the total number of Councillors.

There are total 28 number of councillors out of whom 15 were present in the meeting held for no confidence motion and out of them 11 voted. Out of whom three votes were held invalid and rest of eight votes went in favour of no confidence motion. For passing a resolution for removal of Chief Councillor in terms of Section 25(4) of the Act of 2007 at least 15 votes were required to be held in favour of no confidence motion but in this case only 8 votes were polled in favour of motion.

Thus, in the opinion of this court, the Writ Application has become infructuous.

At this stage, learned counsel for the petitioner submitted that there were several irregularities in the matter of bringing of the requisitions and those are other aspects which may be considered.



Learned counsel for the respondents have rightly submitted that the requisitionists are not even parties to the present writ application, therefore in their absence a challenge to the requisition that too when the no confidence motion has failed need not be allowed. This court agree with the submission of learned counsel for the respondents.

The Writ Application, thus, fails and is dismissed as having become infructuous.

(Rajeev Ranjan Prasad, J)

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