

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8476 of 2020

Amrita Devi, Wife of Sri Sunil Kumar, D/o Girija Prasad Sah, Resident of Mohalla- Sultanpur, Barsoi Post Office and P.S. - Barsoi, District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Nagar Vikas, New Secretariat, Patna.
2. The Bihar election Commission, through its Secretary.
3. The District Magistrate, District - Katihar.
4. The Sub Divisional Magistrate, Barsoi Bazar, District - Katihar.
5. The Executive Officer, Nagar Panchayat, Barsoi, District - Katihar.
6. Bebi Khatun, Wife of Md. Asabar, Resident of Village - Maulanapur, P.O. Barsoi Ghat, P.S. Barsoi, District - Katihar. Ward Councillor of Ward No. 10, Nagar Panchayat, Barsoi, District - Katihar.
7. Sharda Devi, Wife of Nagina Yadav, Resident of Village - Raghunathpur, P.O. Barsoi Ghat, P.S. Barsoi, District - Katihar. Ward Councillor of Ward No. 06, Nagar Panchayat, Barsoi, District - Katihar.
8. Lutfun Begam, Wife of Md. Mamun Rashid, Resident of Village - Raghunathpur, P.O. Barsoi Ghat, P.S. Barsoi, District - Katihar. Ward Councillor of Ward No. 05, Nagar Panchayat, Barsoi, District - Katihar.
9. Akhtari Khatun, Wife of Md. Akhtar, Resident of Village - Raghunathpur, P.O. Barsoi Ghat, P.S. Barsoi, District - Katihar. Ward Councillor of Ward No. 04, Nagar Panchayat, Barsoi, District - Katihar.
10. Dharmendra Singh, Son of Late Bachcha Singh, Resident of Village - Raghunathpur Railway Colony, P.O. Barsoi Ghat, P.S. Barsoi, District - Katihar, Ward Councillor of Ward No. 02, Nagar Panchayat, Barsoi, District - Katihar.
11. Rinki Devi, daughter of Lalit Das, Resident of Village - Maulanapur Kuriya Tola, P.O. Barsoi Ghat, P.S. Barsoi, District - Katihar. Ward councillor of Ward No. 11, Nagar Panchayat, Barsoi, District - Katihar.
12. Sahera Khatun Wife of Late Matiur Rahman, Resident of Village - Maulanapur, P.O. Barsoi Ghat, P.S. Barsoi, District - Katihar. Ward councillor of Ward No. 08, Nagar Panchayat, Barsoi, District - Katihar.
13. Bimla Devi Wife of Late Gopal Singh, Resident of Village - Sultanpur Barsoi Bazar, P.O. Barsoi Bazar, P.S. Barsoi, District - Katihar. Ward councillor of Ward No. 12, Nagar Panchayat, Barsoi, District- Katihar.
14. Ayasha Khatun Wife of Late Md. Shamim, Resident of Village- Sultanpur Barsoi, P.O. Barsoi Bazar, P.S. Barsoi, District - Katihar. Ward Councillor of Ward No. 13, Nagar Panchayat, Barsoi, District - Katihar.
15. Mamta Devi, Wife of Pramod Kumar Sah, resident of Raghunathpur Station Road, P.O. Barsoi Bazar, P.S. Barsoi, District - Katihar. Ward Councillor of Ward No. 07, Nagar Panchayat, Barsoi, District - Katihar.



16. Md. Sagir Alam, Son of Late Naziruddin, Resident of Chhota Raghunathpur, P.O. Barsoi Ghat, P.S. Barsoi, District - Katihar. Ward Councillor of Ward No. 01, Nagar Panchayat, Barsoi, District - Katihar.
17. Dipak Chandra Das, Son of Late Manindra Nath Das, Resident of Sultan Barsoi Ras Chauk, P.O. Barsoi Bazar, P.S. Barsoi, District - Katihar. Ward Councillor of Ward No. 15, Nagar Panchayat, Barsoi, District - Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Garg
For the Respondent/s : Mr.Lalit Kishore (AG)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 19-03-2021 A counter affidavit on behalf of Respondent No. 5 has been filed during the course of argument. Let it be taken on record.

Heard Mr. Ashok Kumar Garg, learned counsel for the petitioner; Mr. Sanjeev Nikesh, learned counsel for State Election Commission; and Mr. Subhash Prasad Singh, learned GA-3 for the State.

This writ petition was initially filed for quashing the Memo No. 162, dated 18.09.2020, issued by Respondent No. 5 / Executive Officer, Nagar Panchayat, Barsoi, whereby he had fixed a special meeting for 23d of September, 2020 at 11.00 A.M. for deliberations over no-confidence motion against the petitioner as well as



for quashing the requisition of no-confidence motion dated 02.09.2020.

During the pendency of this writ petition, no-confidence was carried against the petitioner on 23.09.2020, which resolution also has been challenged by the petitioner by way of Interlocutory Application (Annexure- R 2/1).

The sole ground raised by the petitioner is that no-confidence motion against the petitioner could not have been fixed or carried through within two years of her taking over the responsibility of the Chief Councilor.

Section 25 of the Bihar Municipal Act, 2007 which deals with removal of Chief Councilor / Deputy Chief Councilor specifically provides that no-confidence motion shall not be brought against the Chief Councilor / Deputy Chief Councilor within a period of two years of taking over the charge of the post.

Admittedly the petitioner was elected as Chief Councilor on 19.09.2019 and therefore any no-



confidence motion could have been brought against her only on or after 18.09.2021.

The requisition, the fixation of date as well as the resolution dated 23.09.2020 allowing the no-confidence motion against the petitioner therefore is in derogation of Section 25 (4) of the Bihar Municipal Act, 2007 and cannot be sustained in the eyes of law.

For the aforesaid reasons, the resolution dated 23.09.2020, the requisition as also the fixation of date are set aside.

The writ petition stands disposed off accordingly.

(Ashutosh Kumar, J)

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