

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14330 of 2021

Vinod Kumar Son of Sri Krishna Prasad Resident of Village- Koilwar, PO-
Koilwar, PS- Koilwar, District- Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Bhojpur.
3. The Executive Officer, Nagar Panchayat Koilwar, PO- Koilwar, PS-
Koilwar, District- Bhojpur.
4. Smt Sabnam Bano Wife of Sarfaraj Aalam @ Sonu Resident of Village-
Koilwar, PO- Koilwar, PS- Koilwar, District- Bhojpur.
5. Smt. Shahida Khatoon Wife of Hasan Rijavi Resident of Village- Koilwar,
PO- Koilwar, PS- Koilwar, District- Bhojpur.
6. Smt Sufiya Praveen Wife of Rashid Malik Resident of Village- Koilwar, PO-
Koilwar, PS- Koilwar, District- Bhojpur.
7. Smt Saira Khatoon Wife of not known Resident of Village- Koilwar, PO-
Koilwar, PS- Koilwar, District- Bhojpur.
8. Sri Raj Kumar Son of Sushil Kumar Resident of Village- Koilwar, PO-
Koilwar, PS- Koilwar, District- Bhojpur.
9. Sri Yadvendra Kumar Son of Late Ram Swaroop Singh Yadav Resident of
Village- Koilwar, PO- Koilwar, PS- Koilwar, District- Bhojpur.
10. Sri Prabhat Kumar Son of Late Rajdeep Singh Resident of Village- Koilwar,
PO- Koilwar, PS- Koilwar, District- Bhojpur.
11. Sri Shiv Kumar Singh Son of Late Ram Singh Resident of Village- Koilwar,
PO- Koilwar, PS- Koilwar, District- Bhojpur.
12. Sri Kumar Paswan Son of Shyam Nandan Paswan Resident of Village-
Koilwar, PO- Koilwar, PS- Koilwar, District- Bhojpur.
13. Smt Sunita Devi Wife of Sunil Kumar Ram Resident of Village- Koilwar,
PO- Koilwar, PS- Koilwar, District- Bhojpur.
14. Sri Shiv Kumari Devi Wife of Ramesh Kumar Ram Resident of Village-
Koilwar, PO- Koilwar, PS- Koilwar, District- Bhojpur.
15. Smt Sandhya Devi Wife of Ravi Ranjan Singh Resident of Village- Koilwar,
PO- Koilwar, PS- Koilwar, District- Bhojpur.
16. Sri Rajgrih Prasad Son of Late Ram Vinay Prasad Resident of Village-
Koilwar, PO- Koilwar, PS- Koilwar, District- Bhojpur.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Chittaranjan Sinha, Senior Advocate Mr. Ravindra Kr Sinha No.2, Advocate
For the Respondent State:		Mr. Subash Prasad Singh, GA-3
For Respondents	:	Mr. Suresh Prasad Singh No.1, Advocate Ms. Kumari Rashmi, Advocate Mr. Sanjay Kumar, Advocate



Mr. Ajay Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

7 17-12-2021 This matter has been taken up for hearing online through vide conference because of COVID-19 pandemic restrictions.

2. The petitioner was elected as Chairman of Nagar Panchayat, Koilwar, on 09.06.2017. Upon completion of two years of his term, a requisition was made by Councillors of the Nagar Panchayat for convening special meeting to bring 'no confidence motion' against him. A special meeting was accordingly convened for the said purpose and no confidence motion brought against the petitioner stood defeated on 22.06.2019. Another 'no confidence motion' was subsequently brought against the petitioner in the special meeting convened for the said purpose, which too was defeated on 13.07.2020.

3. This is an admitted fact that a third requisition was filed by the Councillors of the said Nagar Panchayat for convening special meeting in order to bring yet another 'no confidence motion'. From Annexure-6 of the writ application, it appears that the third requisition dated 08.07.2021 was placed



before the petitioner. The petitioner, raising an objection that no requisition could have been made within one year of holding of the previous special meeting on 13.07.2020, requested the Executive Officer, Nagar Panchayat, Koilwar, not to convene any special meeting for discussion on 'no confidence motion'. He also informed the Executive Officer that a writ petition has been filed before this Court on 12.07.2021 against the said requisition dated 08.07.2021.

4. The fact remains that after completion of one year of the last 'no confidence motion', another requisition was made on 16.07.2021 by the Councillors, requesting for convening a special meeting to bring no confidence motion against the petitioner. Acting upon the said requisition, a special meeting was convened on 30.07.2021. In the said special meeting held on 30.07.2021, no confidence motion was brought against the petitioner, which has, admittedly, been successfully carried out.

5. In the aforesaid background, the petitioner has filed this writ application under Article 226 of the Constitution of India seeking quashing of the proceeding of the said meeting dated 30.07.2021, whereby the petitioner has been removed from the post of Chairman of Koilwar Nagar Panchayat, consequent upon passing of the no confidence motion.



6. Mr. Chittaranjan Sinha, learned Senior Counsel appearing on behalf of the petitioner has submitted that without withdrawing the requisition dated 08.07.2021, no subsequent requisition could have been made on 16.07.2021 by the Councillors. He has submitted that the said requisition for convening special meeting for no confidence motion dated 08.07.2021 made within one year of the previous meeting was apparently in contravention of Section 25(4) of Bihar Municipal Act, 2007. He has further submitted that in any view of the matter, the said requisition dated 08.07.2021 ought to have been discussed in the special meeting held on 30.07.2021, which was not done. He has accordingly submitted that the no confidence motion brought against the petitioner on 30.07.2021 was patently illegal and accordingly removal of the petitioner on the basis of passing of no confidence motion is unauthorized and illegal.

7. In view of the submission, which has been advanced on behalf of the petitioner, it would be apt to take note of Section 25(4) of the Bihar Municipal Act, 2007, which reads as under : -

“25. (4) 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, and the procedure for the conduct of business in the special meeting shall be such as may be prescribed:

“Provided that a no confidence motion shall not be brought against the Chief Councillor/Deputy Chief Councillor within a period of two years of taking over the charge of the post:

Provided further that a no confidence motion shall not be brought again within one year of the first no confidence motion:

Provided further also that no confidence motion shall not be brought within the residual period of six months of the municipality.”

8. The language of second proviso to sub-section (4) of Section 25 is unambiguous and states that no confidence motion shall not be brought again within one year of the first no



confidence motion. This is not in dispute that the requisition for no confidence motion in question was made on 16.07.2021 and the no confidence motion was brought, more than one year after the previous no confidence motion brought against the petitioner on 13.07.2020.

9. The submission made on behalf of the petitioner that the said requisition dated 08.07.2021 ought to have been discussed in the special meeting when no confidence motion was moved against the petitioner on 30.07.2021 suffers from fundamental fallacy keeping in view the petitioner's own stand in his letter dated 15.07.2021 (Annexure-6) addressed to the Executive Officer, Nagar Panchayat, Koilwar, wherein he had specifically mentioned that there should be no discussion on the said requisition dated 08.07.2021, being premature.

10. In any view of the matter, the requisition dated 16.07.2021 cannot be said to be suffering from any illegality based on which the meeting was convened on 30.07.2021. In such view of the matter, we do not find any illegality in passing of no confidence motion against the petitioner in accordance with the provision under Section 25(4) of the Act.

11. In the background of aforesaid discussions, we do not find any merit in this application, which is accordingly



dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Pawan/-

U			
---	--	--	--

