

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.796 of 2019

In
Civil Writ Jurisdiction Case No.13154 of 2019

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Sapna Sarika Wife of 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.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Urban and Housing Development Department, Government 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, District- Aurangabad.
5. Smt. Aarti Devi wife of not known to the Petitioner, at present Dy. Chief Councilor, Nagar Panchayat Nabinagar, Aurangabad.
6. Smt. Premlata Kumari wife of not known to the Petitioner Ward Councilor of Ward No. 10, Nagar Panchayat Nabinagar, Aurangabad.
7. Smt. Chanda Devi wife of not known to the Petitioner Ward Councilor of Ward No. 06, Nagar Panchayat Nabinagar, Aurangabad.
8. Smt. Sabita Devi wife of not known to the Petitioner Ward Councilor of Ward No. 14, Nagar Panchayat Nabinagar, Aurangabad.
9. Smt. Gunja Singh wife of not known to the Petitioner Ward Councilor of Ward No. 13, Nagar Panchayat Nabinagar, Aurangabad.
10. Smt. Prabha Kunwar wife of not known to the Petitioner Ward Councilor of Ward No. 12, Nagar Panchayat Nabinagar, Aurangabad.
11. Smt. Sharda Devi wife of not known to the Petitioner Ward Councilor of Ward No. 11, Nagar Panchayat Nabinagar, Aurangabad.
12. Sri Ajay Kumar Sinha son of not known to the Petitioner Ward Councilor of Ward No. 08, Nagar Panchayat Nabinagar, Aurangabad.
13. Sri Raman Kumar son of not known to the Petitioner Ward Councilor of Ward No. 01, Nagar Panchayat Nabinagar, Aurangabad.
14. Sri Ajay Prasad son of not known to the Petitioner, Ward Councilor of Ward No. 03, Nagar Panchayat Nabinagar, Aurangabad.
15. Sri Yogendra Singh son of not known to the Petitioner Ward Councilor of Ward No. 09, Nagar Panchayat Nabinagar, Aurangabad.
16. Sri Gulam Mohammad son of not known to the Petitioner Ward Councilor of Ward No. 02, Nagar Panchayat Nabinagar, Aurangabad. Respondent No. 5 to 16 are represented through the Executive Officer, Nagar Panchayat Nabinagar, Aurangabad.



... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Y.V. Giri Sr. Adv & Mr.Sanjeev Nikesh, Adv
For the Respondent/s : Mr. S.B.K. Mangalam, Adv

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)**

Date : 18-02-2021

Heard learned counsel for the parties.

This LPA under Clause 10 of Letters Patent Appeal has been preferred for setting aside the judgment and order dated 02.07.2019 passed by learned Single Judge in CWJC No. 13154 of 2019, dismissing the writ petition.

Appellant had filed writ petition for a direction to respondent no. 4 to produce requisition dated 10.06.2019 before the Hon'ble Court and for quashing the letter no. 496 dated 27.06.2019 issued by Executive Officer, for special meeting for consideration of No Confidence Motion against the Appellant and fix the date for special meeting on 03.07.2019.

Briefly stated, the facts of the case is that Appellant was elected Chief Councillor, Nabinagar, Nagar Panchayat on 09.06.2017 and had completed her term of two years in her office on 09.06.2019.

A requisition signed by 8 Ward Councillors of the



Nagar Panchayat was sought to be served upon Appellant on 10.06.2019 in the Headquarter of Nagar Panchayat and as Appellant was not available, the original requisition was submitted in the Office of Nagar Panchayat on 10.06.2019. A copy of which was sent to the Appellant on her local address as well as on her address at Patna. The Executive Officer had also forwarded the requisition on 10.06.2019 through the Office Peon with forwarding letter no. 463 dated 10.06.2019, however, in absence of Appellant same was served upon the servant and service report was submitted to the Executive Officer on 10.06.2019 and thereafter on 14.06.2019 also an attempt was made to serve requisition on Appellant but no one received said requisition and file was returned in the Office of Executive Officer on 14.06.2019 with report of Process Server. However, on 16.06.2019 requisition was served upon Appellant at her Patna residence and on 19.06.2019 requisition was served upon relative of Appellant at Nabinagar. Requisitionist had also sent requisition to Appellant through Speed Post on 10.06.2019 and consignment was delivered to Appellant at her Patna address on 12.06.2019 and requisition sent by the Executive Officer through Speed Post was also delivered to Appellant on 12.06.2019.



Despite service of requisition upon Appellant, she did not fix the date of Special Meeting for consideration of NO Confidence Motion against her as such the requisitionist acted in terms with the provisions contained under Rule 2(iv) of the Bihar Municipal No Confidence Process Rules Process, 2010 and fix the date of Special Meeting on 03.07.2019 for which they had taken their decision on 27.06.2019 and informed the Executive Officer, through letter dated 27.06.2019 and on receipt of letter the Executive Officer, issued notice to all the Ward Councillor vide letter dated 27.06.2019, and same was received by Appellant also.

After hearing the parties, the learned Single Judge did not accept the plea of Appellant that there was any violation of Rule 2((i) of the Bihar Municipal No Confidence Motion Rules, 2010, operative part of the judgment and order reads as follows:-

“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.”

After hearing the parties and considering the materials available on record, this Court does not find any infirmity or error in the order passed by the learned Single Judge requiring any interference by this Court.

This Letter Patent Appeal is, accordingly, dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.04.2021
Transmission Date	NA

