

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17990 of 2021

1. Gupteshwar Prasad Son of Mahabir Sah, Resident of Sasaram Road, Tenduni, Ward No. 3, P.O. and P.S.-Bikramganj, District -Rohtas at Sasaram, presently Ward Councilor of Ward No. 3 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District -Rohtas at Sasaram.
2. Kavita Devi, Wife of Sri Bittu Kumar, Resident of Mohalla- Tenduni, Ward No. 1, P.O. and P.S.-Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 1 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram.
3. Prem Kumar Soni, Son of Raju Seth, Resident of Dhibra Mohalla, Tenduni, Ward No. 4, P.O. and P.S.-Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 4 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram.
4. Sarita Kumari, Wife of Surendra Kumar Singh, Resident of Mohalla-Dhangain, Ward No. 6, P.O. and P.S.-Bikramganj, District -Rohtas at Sasaram, presently Ward Councilor of Ward No. 6 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram.
5. Lalan Prasad, Son of Late Vishnu Shankar Chaurasiya, Resident of Mohalla-Dhangain, Ward No. 7, P.O. and P.S.-Bikramganj, District -Rohtas at Sasaram, presently Ward Councilor of Ward No. 7 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District -Rohtas at Sasaram.
6. Vijay Sharma, Son of Late Ramchandra Sharma, Resident of Mohalla-Krishna Nagar, Ward No. 15, P.O. and P.S.-Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 15 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District -Rohtas at Sasaram.
7. Kumari Archana, Wife of Niraj Kumar, Resident of Mohalla-Mahuli, Ward No. 8, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 8 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
8. Nitesh Kumar Singh, Son of Late Jitendra Singh, Resident of Mohalla-Tenduni, Ward No. 2, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 2 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
9. Kusum Singh, wife of Kumud Ranjan Singh, Resident of Sasaram Road, Near Pani Tanki, Ward No. 12, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 12 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
10. Raja Jitendra Kumar, son of Late Chaudhary Ramun Prasad, Resident of A.S. College Road, Bikramganj, P.O. and P.S. Bikramganj, District -Rohtas at Sasaram, presently Ward Councilor of Ward No. 21 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
11. Anju Devi, Wife of Anil Kumar Singh, Resident of Mohalla-Dharupur, Ward No. 20, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 20 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.

12. Chinta Devi, Wife of Dhanji Paswan, Resident of Mohalla-Dhangain, Ward No. 9, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 9 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
13. Radhika Devi, Wife of Sri Devanand Ram, Resident of Mohalla-Dhangain, Ward No. 8, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 8 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
14. Shakuntala Devi, Wife of Gupteshwar Kumar, Resident of Ara Road, Durga Nagar, Ward No. 17, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 17 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
15. Rita Devi, Wife of Raju Singh, Resident of Mohalla-Sikaria, Basuganj, Ward No. 26, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 26 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
16. Ladli Devi, wife of Abhay Kumar Prasad, Resident of Natwar Road, Dhangain, Ward No. 10, P.O. and P.S. Bikramganj, District -Rohtas at Sasaram, presently Ward Councilor of Ward No. 10 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
17. Sharjahan Khatoon, Wife of Md. Akhtar Hussain, Resident of Bari Masjid, Thana Chowk, Ward No. 22, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 22 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
18. Umrawati Devi, Wife of Niranjan Thakur, Resident of Purana Chini Mill, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 5 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
19. Anisha Begum, Wife of Late Munnu Mian, Resident of Bari Masjid, Thana Chowk, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 23 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
20. Praveen Bano, Wife of Md. Shamshad Ali, Resident of Sasaram Road, Near Thana, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 11 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
21. Khairun Nisha, Wife of Saidullah Khan, Resident of Gulzarbag, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 27 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.
22. Ravi Ranjan, Son of Gupteshwar Singh, Resident of Mohalla-Dharupur, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram, presently Ward Councilor of Ward No. 19 of Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Director, Municipal Administration, Urban Development and Housing Department, Government of Bihar, Patna.
4. The District Magistrate, Rohtas at Sasaram, District-Rohtas at Sasaram.
5. The Sub-Divisional Officer, Bikramganj, District-Rohtas at Sasaram.
6. The Executive Officer, Nagar Parishad, Bikramganj, P.O. and P.S. Bikramganj, District-Rohtas at Sasaram.
7. The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
8. The Secretary, The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. S.B.K. Mangalam, Advocate
For the State	:	Mr. Yogeshwar Pd. Sinha (Aag7)
For State Election Commission	:	Mr. Amit Shrivastava, Sr. Advocate Mr. Sanjeev Nikesh, Advocate Mr. Girish Pandey, Advocate
For Nagar Parishad Bikramganj	:	Mr. Vijay Shankar Upadhaya, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-12-2021

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

(I) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent no.4 for convening the meeting of elected Ward Councilors of Bikraamganj Nagar Parishad for the purposes of election to the vacant post of Chief Councilor of the said Nagar Parishad in view of the statutory duty cast upon him under Rule 93 of the Bihar Municipal Election Rules, 2007 which has fallen vacant on 27.07.2021 when the then Chief

Councilor was removed from the post by a No Confidence Motion passed against him.

(II) For a declaration that since the jurisdiction for holding the meeting to fill up the vacancy in the office of Chief Councilor or Deputy Chief Councilor of a Municipality has been vested in the District Magistrate by virtue of Rule 93 of the Bihar Municipal Election Rules, 2007 neither the District Magistrate is required to consult the State Election Commission for the purposes of convening the said meeting nor the State Election Commission has any jurisdiction to usurp the power, which has been vested in the District Magistrate and allow the post to remain vacant for months thereafter.

(III) For issuance of any other appropriate writ / writs, order / orders, direction/directions for which the writ petitioners would be found entitled under the facts and circumstances of the case.”

Having heard learned counsel for the parties, we are of the considered view that issue can be best resolved with the petitioners approaching the respondent no.7, namely, the State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner, as also respondent no.8, namely, the Secretary, The State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna, who, upon receipt of the request of the petitioners, shall positively take appropriate action in accordance with law within a period of four weeks thereafter.

The issue of maintainability of the present petition
is left open.

Liberty reserved to the petitioners to take recourse
to such remedies, as are otherwise available in accordance with
law.

Petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-Ranjan

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.12.2021
Transmission Date	NA