

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 923 of 2022

Farah Naaz Wife of Md Sarfara Alam, Resident of Islam Nagar, Ward No. 22, Bhabhua, P.S.-Bhabhua, District Kaimur, At Present Ward Councillor of Ward No.22 Bhabhua Nagar Parishad, Bhabhua (Kaimur).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Deputy Secretary, Municipal Administrative Directorate, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Under Secretary, Municipal Administrative Directorate, Urban Development and Housing Department, Government of Bihar, Patna.
4. The Secretary, State Election Commission, Bihar, Sone Bhawan, veer Chand Patel Marg, Patna.
5. The Special Secretary, State Election Commission, Bihar, Sone Bhawan, Veer Chand Patel Marg, Patna.
6. The District Magistrate -Cum-District Election Officer (Municipality), Kaimur.
7. The Sub-Divisional Officer, Bhabhua, Kaimur.
8. The Executive Officer, Nagar Parishad Bhabhua, Bhabhua, Kaimur.
9. Sri Jainendera Kumar Arya Son of Ramlal Arya, at Present Chief Councillor, Nagar Parishad Bhabhua, Kaimur. Resident of Ward No. 12, Bhabhua, P.S.-Bhabhua, District-Kaimur.
10. Nahid Parveen Wife of Sarukh Khan at Present Deputy Chief Councillor, Nagar Parishad Bhabhua, Kaimur. Resident of Sabji Mandi Road, Near Girls High School, Bhabhua, P.S.-Bhabhua, District-Kaimur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Rajeev Ranjan, Advocate
For the State	:	Mr Shankar Kumar, AC to AAG VII
For the Election Commission	:	Mr Sanjeev Nikesh, Advocate



**CORAM: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH
and
HONOURABLE MR JUSTICE MADHURESH PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 08-03-2022

Heard learned counsel for the petitioner and the respondents.

2 The petitioner is seeking quashing of letter dated 28.12.2021 issued by the Urban Development and Housing Department, Government of Bihar, Patna whereby the Chief Executive Officer, Nagar Parishad, Bhabua, Kaimur has been asked to proceed in accordance with sub-section (4) of Section 25 of the Bihar Municipal Act (for brevity, *the Act*), 2007 in the matter of bringing a *No Confidence Motion* against Respondent No 10, who is the Deputy Chief Councillor, Nagar Parishad, Bhabua.

3 Learned counsel appearing on behalf of the petitioner has drawn our attention to a letter dated 15.12.2021 issued by the Executive Officer, Nagar Parishad, Bhabua addressed to the Urban Development and Housing Department, Government of Bihar, Patna seeking certain guidelines on a requisition for calling *No Confidence Motion* against Respondent No 10 (the Deputy Chief Councillor) as the term of the Nagar Parishad is going to expire within six months from the date of such requisition for *No*



Confidence Motion pursuant thereto the impugned letter dated 28.12.2021.

4 Learned counsel appearing on behalf of the petitioner has submitted that the said communication dated 28.12.2021, which has been issued in the light of the said communication dated 15.12.2021, does not contain a clear guideline.

5 In our opinion, this writ application is misconceived in view of the express provision under Section 25 (4) of the Act, the third proviso of which reads as under:

“25. Removal of Chief Councillor/ Deputy Chief Councillor.- (1) The Chief Councillor/Deputy Chief Councillor shall cease to hold office as such if he ceases to be a Councillor.

(2) The Chief Councillor may resign his office by writing under his hand addressed to the Government and Deputy Chief Councillor may resign his office by writing under his hand addressed to the Chief Councillor.

(3) Every resignation under sub-section (2) shall take effect on the expiry of seven days from the date of such resignation, unless within the said period of seven days he withdraws such resignation by writing under his hand addressed to the Government or the Chief Councillor, as the case may be.

(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.”

(Underlined for emphasis)

6 Learned counsel appearing on behalf of the petitioner, however, has attempted to persuade this Court that an attempt was made to bring *No Confidence Motion* against the said Respondent No 10 in 2021 and the present requisition in question is a continuing process.

7 Be that as it may, there being express provision under Section 25 (4) of the Act, as noted above to the effect that *No Confidence Motion* cannot be brought within the residual period of six months, we are not inclined to entertain the relief claimed in the writ petition and interfere in the matter.



8 In our opinion, this writ application has no merit and is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.03.2022
Transmission Date	NA

