

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.70 of 2020

In

Civil Writ Jurisdiction Case No.16606 of 2019

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Pawan Kumar Agrawal S/o Ratan Kumar Agrawal, Ward Councilor of Nagar Panchayat, Bahadurganj, District- Kishanganj, resident of Ward No. 9, Thakurbari Road, Bahadurganj, P.S.- Bahadurganj, District- Kishanganj.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and housing Department, Govt. of Bihar, Patna.
3. The District Magistrate cum District Election Officer, Kishanganj, District Kishanganj.
4. The Sub-Divisional Officer, Kishanganj.
5. The Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
6. Md. Safrul @ Md. Sakrul, S/o Naim Miya, resident of Mohalla- Rahmatnagar, Ward No. 7, P.O. and P.S. Bahadurganj, District- Kishanganj, the then Chief Councilor, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
7. Mujtawa Anwar Rahi, S/o not known Ward Councilor of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat Bahadurganj, P.O. and P.S. Bahadurganj, District Kishanganj.
8. Sanjay Kumar, S/o not known, Ward Councilor of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
9. Deepak Kumar, S/o not known to the petitioner, Ward Councilor of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
10. Saidur Rahman, S/o now known to the petitioner Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.



11. Md. Faiyaz Alam, S/o now known to the petitioner, Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
12. Sumita Devi, W/o not known to the petitioner, Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
13. Rafat Naz, W/o not known to the petitioner Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, P.O. and P.S. Bahadurganj, District- Kishanganj.
14. Husna Sabana, W/o not known to the petitioner, Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
15. Rasmani Devi, W/o not known to the petitioner, Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
16. Md. Shakir, S/o not known to the petitioner Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
17. Kamrun Nisha, W/o not known to the petitioner Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
18. Nujhat Praveen, W/o not known to the petitioner Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
19. Tamana Begun, W/o not known to the petitioner, Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
20. Punam Sinha, W/o not known to the petitioner, Ward Councilors of Nagar Panchayat, Bahadurganj P.O. and P.S. Bahadurganj, District- Kishanganj.
21. Rajiv Kumar Sinha, W/o not known to the petitioner, Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Bahadurganj, District- Kishanganj.
22. Sumitra Devi, W/o Kishore Kumar Singh, Resident of Village- Gopalpur, P.O. Natuapara, P.S. Bahadurganj, District- Kishanganj, the then Chief councilors, Nagar Panchayat Bahadurganj, P.O. and P.S.- Bahadurganj,



District- Kishanganj.

... .. Respondent/s

with

Letters Patent Appeal No. 103 of 2020

In

Civil Writ Jurisdiction Case No.16555 of 2019

Md. Faiyaz Alam S/o-Late Md. Sulaiman, R/o Vill- Bahadurganj P.O. and P.S.-Bahadurganj, Distt-Kishanganj, Presently residing at Satal Nihal Bhag, Bahadurganj, Kishanganj, P.S.-Bhadurganj, Dist-Kishanganj, Bihar, Pin-855101.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
3. The District Magistrate-Cum-District Officer, Kishanganj District-Kishanganj.
4. The Sub-Divisional Officer, Kishanganj District-Kishanganj.
5. The Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S. Badadurganj, District-Kishanganj.
6. Sumitra Devi W/o Kishore Kumar Singh R/o Village- Gopalpur, P.O.-Natuapara, P.S.-Bahadurganj, District-Kishanganj, Presently Chief Councilor, Nagar Panchayat Bahadurganj P.O. and P.S.-Bahadurganj, District-Kishanganj.
7. Mujatawa Anwar Rahi Son of not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
8. Sanjay Kumar Son of not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.



9. Deepak Kumar Son of not Known to the Petitioner the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
10. Saidur Rahman Son of not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
11. Sunita Devi Wife of not Known to the Petitioner the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
12. Rafat Naz Wife of not Known to the Petitioner the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
13. Husna Sabna Wife of not Known to the Petitioner the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
14. Rasmani Devi Wife of not Known to the Petitioner the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
15. Md. Shakri Son of not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
16. Kamrun Nisha Wife of Not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
17. Nujhat Parveen Wife of not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
18. Tamana Begum Wife of not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
19. Punam Sinha Wife of not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
20. Rajiv Kumar Sinha Son of not Known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar



- Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
21. Pawan Kumar Agrawal Son of not known to the Petitioner, the Ward Councilors of Nagar Panchayat, Bahadurganj through the Executive Officer, Nagar Panchayat, Bahadurganj, P.O. and P.S.- Bahadurganj, District-Kishanganj.
22. Md. Safrul @ Md. Sakrul Son of Naim Miya Resident of Mohalla-Rahmat Nagar, Ward No.7, P.O. and P.S.- Bahadurganj, District-Kishanganj, Presently than Deputy Chief Councilor, Nagar Panchayat Bahadurganj, P.O. and P.S.-Bahadurganj, District-Kishanganj.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 70 of 2020)

For the Appellant/s : Mr. Mukesh Kumar Jha, Adv.

For the Respondent/s : Mr. S.B.K. Mangalam, Adv.

For the Respondent No.5: Mr. Nityanand Mishra, Adv.

(In Letters Patent Appeal No. 103 of 2020)

For the Appellant/s : Mr. Jitendra Kumar Giri, Adv.

For the Respondent/s : Mr. S.B.K. Mangalam, Adv.

For the Respondent No.5: Mr. Nityanand Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 28-04-2022

Both the appeals have been heard together
and are being disposed off by this common order.

2. Heard Mr. Mukesh Kumar Jha, the learned
Advocate for the appellant in L.P.A. No. 70 of 2020 and



Mr. Jitendra Kumar Giri, the learned Advocate for the appellant in L.P.A. No. 103 of 2020 and Mr. S.B.K. Mangalam, the learned counsel for the respondents in both the appeals. Mr. Nityanand Mishra, the learned Advocate has also appeared in both the appeals on behalf of respondent No. 5.

3. Pursuant to the special meeting of "No Confidence" on 13.08.2019, the appellants were elected as Chief and Deputy Chief Councillors respectively of the *Nagar Pachayat* in question.

4. The private respondents, who actually were duly elected as Chief and Deputy Chief Councillors, viz., Sumitra Devi & Md. Safrul @ Md. Sakrul, had challenged the aforesaid convening of the special meeting as also the election of the appellants to the posts of Chief and Deputy Chief Councillors *vide* C.W.J.C. No. 16606 of 2019 and C.W.J.C. No. 16555 of 2019 respectively.

5. Both the writ petitions were heard and disposed off by a common order, which is under



challenge in both the appeals.

6. A requisition by fifteen Ward Councillors of the concerned Nagar Panchayat, out of total of eighteen Members, had submitted to the private respondent No. 22 in L.P.A. No. 70 of 2020 asking her to convene a special meeting for staging a "No Confidence Motion" against her as Chief and the Deputy Chief Councillors (private respondent No. 22 in L.P.A. No. 103 of 2020) with a copy to the District Magistrate; Sub-Divisional Officer and Executive Officer, Kishanganj.

7. When no meeting was held, twelve of the Councillors wrote directly to the Executive Officer on 24.07.2019, requesting him to convene a special meeting for consideration of "No Confidence Motion" against the Chief and the Deputy Chief Councillors. A request was also made for fixing a date of 02.08.2019 for such meeting.

8. However, the Executive Officer, under his letter dated 02.08.2019, fixed the date of 13.08.2019 for the meeting.



9. On that date, meeting was held and no confidence motion was passed whereafter the appellants were elected as the Chief and Deputy Chief Councillors respectively.

10. The learned Single Judge, relying upon the judgment in ***Meena Yadav Vs. The State of Bihar: 2010(2) PLJR 389***, held that the Executive Officer could not have fixed a date of his own but under the Rules, he was required to fix the meeting on the date so requested by the requisitionists. Apart from this, the learned Single Judge found that the notice did not disclose the reasons for staging any confidence motion.

11. During the course of arguments before the learned Single Judge, facts were brought to the fore indicating that the appellant in L.P.A. No. 70 of 2020 did not even have the requisite qualification of being elected as a Ward Member. For the breach of the Rules in convening the meeting for discussing "No Confidence Motion", the proceedings were quashed and the election of the appellants as the Chief and the Deputy Chief



Councillors were set-aside.

12. The concerned respondents were restored to their respective position.

13. We do not find any reason to interfere with the order passed by the learned Single Judge.

14. Apart from this, we also take notice of the fact that the term of the Councillors is almost over.

15. Thus, the appeals have lost their force otherwise as well.

16. For the reasons afore-stated, both the appeals are dismissed.

17. I.A., if any, in both the appeals are also disposed off.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.05.2022
Transmission Date	N/A

