
(2010) 02 PAT CK 0072
In the Patna High Court

Babul Akhtar and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-02-2010

Acts Referred:

Bihar Panchayat Raj Act, 1947 — Section 44(3)(i)

Citation : (2010) 02 PAT CK 0072

Hon'ble Judges : Navaniti Prasad Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Navaniti Prasad Singh, J.—On petitioners own showing, in the Panchayat Samiti in which there were fourteen elected members, a no confidence motion was brought against Pramukh and Up Pramukh. After voting was done, it was found all the eight petitioners were present. Further, after votes were cast, it was found that there were seven valid votes in favour of the no confidence motion and the eighth vote of petitioner No. 7 was declared invalid. Thus, the Executive Officer held that the no confidence motion had not been carried through in terms of Section 44(3)(i) of the Bihar Panchayat Raj Act. This decision is challenged in this writ petition. The ground of challenge is that the eighth invalid vote was because of poor eye sight where petitioner No. 7 marked the vote, admittedly, outside the box in favour of motion.

2. In my view, on this fact alone, this question needs no adjudication. The marking being beyond the box provided, the vote is invalid. The vote being invalid, there were only seven votes in support of the no confidence motion in a House which had fourteen elected members. Thus, it was 50% and not majority.

3. Thus, the decision of the Executive Officer cannot be interfered with. The writ petition is dismissed.