

(2005) 09 PAT CK 0029
In the Patna High Court
Case No : CWJC No. 15795 of 2004

Jitendra Yadav

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-09-2005

Acts Referred:

Citation : (2005) 4 PLJR 343

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : S.N.P. Sharma, Ganpati Trivedi, Prabhakar Kumar and S. Rafi Ahmad, for the Appellant; Ravi Ranjan for the Respondent, M/s Dinu Kumar and Ranjeet Kumar for the Pvt. Respondent, for the Respondent

Judgement

Barin Ghosh, J.—It is an unfortunate case that the Executive Officer of the Gram Panchayat accepted the oral submissions made by the requisitionists and two alleged bystanders to the effect that the requisitionists submitted the requisition to the Pramukh and the Pramukh refused to accept the same. When the Up-Pramukh had approached the Executive Officer to convene the meeting, the Executive Officer was duty bound to ascertain whether there is a failure on the part of the Pramukh to convene the meeting, for it is in law the obligation of the Pramukh to convene the meeting and accordingly he must first be approached by the requisitionists to convene the meeting. If the Pramukh refused to accept, nothing prevented the requisitionists to post the requisition by registered post with A/D. Even assuming that the same was not done, when the UpPramukh approached the Executive Officer to convene the meeting and when the Executive Officer found that there is no evidence on record that in point of fact the requisitionists had approached first the Pramukh to convene the meeting, it was the bounden duty of the Executive Officer to place the requisition before the Pramukh with a request to him to convene the meeting and thereby to discharge his statutory obligation, instead on the oral submissions said to have been made by the two alleged bystanders and the requisitionists, he proceeded on the basis as if the Pramukh had been tendered with the requisition and he refused to

accept the same. Although it appears on the requisition itself that the two bystanders had written on the back of the requisition that in their presence the Pramukh refused to accept the requisition, but there is no assertion in the body of the counter affidavit filed on behalf of the Executive Officer that the Executive Officer personally checked up with those alleged bystanders that it is in their writing and it is their signatures and they stand by the statements made therein, and a totally unknown method was adopted by the Executive Officer in convening the meeting at the behest of the Up-Pramukh, who wanted to become the Pramukh by winning over the confidence of the majority of the Members. The notice convening the meeting, the steps taken therefor are all bad in law and the action does not stand the test of law even for one second, for once the legislature has directed a thing to be done in a manner prescribed, the same must be done in such manner and in no other manner.

2. As aforesaid, there is no acceptable evidence on record that in point of fact the requisition was first tendered to the Pramukh. It may be possible that the Up-Pramukh in connivance with the Executive Officer has invented the very requisition said to have been tendered to the Pramukh. However, having regard to the fact that the Pramukh himself participated in the subsequent meeting which was held to fill up the vacancy in the post of Pramukh upon removal of the petitioner at the meeting convened illegally for that purpose, it would not be possible for me to give any relief to the petitioner. The writ petition is dismissed.

3. However, the District Magistrate concerned is directed to enquire into the conduct of the Executive Officer in the matter and to take appropriate action on the basis of his findings and file a report to this Court within two months from the date of receipt of this order. With the above observations, the writ petition stands disposed of. When the report will be filed, the same will be dealt with under the heading for orders.