
(1996) 09 PAT CK 0019
In the Patna High Court
Case No : C.W.J.C. No. 1108 of 1995

Natho Yadav and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 03-09-1996

Acts Referred:

Citation : (1996) 2 PLJR 686

Hon'ble Judges : Nagendra Rai, J

Bench : Single Bench

Advocate : Pramod Mishra and Arun Kumar, for the Appellant; Kameshwar Kumar, for the Respondent

Final Decision : Allowed

Judgement

Nagendra Rai, J.—Heard learned Counsel for the parties.

The Petitioners have filed the present application for setting aside the resolution dated 11.1.1995, by which Respondent No. 5, Ramjee Ram, has been elected as Up-Mukhiya of Chikni Phulkaha Gram Panchayat. The order has not been annexed as according to the Petitioners though they have filed for supply of a copy of the order, but the same has not been supplied to them.

2. A counter-affidavit has been filed on behalf of the State as well as on behalf of Respondent No. 5 and therein, the said order dated 11.1.1995 has not been annexed.

3. It appears that one Satya Narain Mandal was elected as the Mukhiya of the Chikni Phulkaha Gram Panchayat. The said Gram Panchayat was bifurcated into two and according to Petitioner No. 1, he was nominated as the Mukhiya by the District Magistrate vide Annexure 1. Thereafter, some allegations were made by Respondent No. 5 to pass a no-confidence motion, but he failed. The District Panchayat Officer found that Petitioner No. 1 was not the Mukhiya, but a Up-Mukhiya from before and issued an order dated 12.8.1994 that Petitioner No. 1 would continue to work in the same capacity. Respondent No. 5 and Ors. went in

appeal before the Collector and the Collector, by order dated 12.9.1994, set aside the aforesaid order of the District Panchayat Officer and ordered for fresh selection, in pursuance of which, an election was held and Respondent No. 5 was elected as Mukhiya. Against the said order dated 12.9.1994, the Petitioner No. 1 came to this Court in C.W.J.C. No. 8369 of 1994 and this Court set aside the order of the Collector by order dated 16.12.1994 (Annexure 6) and ordered that as there was a controversy between the parties, some steps should be taken to finally resolve the dispute so that the Gram Panchayat might function properly. The District Panchayat Officer was directed to convene a meeting within one month from that day of the members of the Executive Committee to elect the Up-Mukhiya, who would function. This Court also directed that till the matter was decided by the District Panchayat Officer, the Petitioner would continue to work as Up-Mukhiya. According to the Petitioners, after the aforesaid order, the District Panchayat Officer, at that time, was changed by the District Magistrate and Anr. person was posted as the District Panchayat Officer, who issued notices to only three persons, namely, Respondents Nos. 5, 6 and 7 and without notice to the Petitioners, a meeting was alleged to have been held on 11.1.1995 and Respondent No. 5, namely, Ramjee Ram, was elected as Up-Mukhiya of the Gram Panchayat and the said order has been challenged in this writ application.

4. The main ground urged on behalf of the Petitioners is that the Petitioners and other members, namely, Respondents No. 3 and 9 of the Executive Committee were not noticed and Respondents Nos. 5, 6 and 7 were noticed and as such the decision taken in the meeting held on 11.1.1995 is contrary to the direction given by this Court. Specific averment to that effect has been made in paragraph No. 37 of the writ application.

5. In the counter-affidavit filed on behalf of the State, the aforesaid averment of the Petitioners has not been denied and on the other hand, it has been specifically stated in paragraph 27, thereof that the statement made in paragraph No. 37 requires no comment. A counter-affidavit has also been filed, on behalf of Respondents No. 5 to 7 and they have also not controverted the aforesaid statement made in paragraph 37 of the writ application, Thus, it stands admitted that the direction of this Court to hold a meeting of the members of the Executive Committee has not been carried out by the District Panchayat Officer. Though the order electing Respondent No. 5 as Up-Mukhiya has not been annexed with the writ petition for the reason that the same was not available to the Petitioners, the fact is that he has been elected as the Up-Mukhiya in the meeting as it is admitted by all the parties. As the meeting to elect Mukhiya was held on 11.1.1995 contrary to the direction of this Court, any decision taken in the said meeting is of no legal consequences and the same has to be ignored and a fresh meeting has to be held in terms of the direction given by this Hon'ble Court to elect the Up-Mukhiya as it is ordered that till the matter is finally decided the Petitioner will work as Up-Mukhiya. The Respondents are hereby directed to comply with the direction of this Court. The District Panchayat Officer will take all steps to hold a fresh meeting within one month of the receipt of a

copy of this, order and hold election in terms of the earlier direction given by this Court, as contained in Annexure 6.

6. With the aforementioned observation and direction, this writ application is allowed.