

(2005) 09 PAT CK 0101
In the Patna High Court
Case No : CWJC No. 7404 of 2003

Nirmala Singh and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 01-09-2005

Acts Referred:

Citation : (2006) 1 PLJR 129

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Md. Sufian, S.B.K. Manglam, for the Appellant; Rajeshwar Prasad for the State and M/s N.K. Agrawal and Bathteyar Yusuf for the Pvt. Respondent, for the Respondent

Judgement

Barin Ghosh, J.—Annexure-1 to the writ petition is the requisition. It appears to be the case of the Executive Officer that the Executive Officer received a copy of Annexure-1 and forwarded the same to the petitioner but the petitioner refused to accept the same. The Executive Officer has stated that in view of such refusal, the copy of Annexure-1, as was received by him was kept by him in the file. It is also the contention of the Executive Officer, which may not be a correct, that while a copy of Annexure-1 was served upon the Executive Officer, a copy thereof or the original of the same was served upon the petitioner. The requisitionists have also not clearly stated nor have produced any evidence to show that Annexure-1 to the writ petition was served by them upon the petitioner. A doubt, therefore, has been cast as to the service of Annexure-1 to the petitioner. In order to remove the doubt, it was the duty of the petitioner to state in the body of the petition or in the rejoinder as to how he received Annexure-1. At the time of argument, learned counsel for the petitioner submitted that after Annexure-1 was kept in the file, his client may have prepared a copy thereof. This stand has not been taken in the petition or in any supplementary affidavit or in any interlocutory application or in the rejoinder, and accordingly I would not permit the petitioner to contend something for which there is no foundation at all. Having produced Annexure-1 and having failed to explain how he got it, it

would not lie in the mouth of the petitioner that he did not receive the original of the Annexure-1 at the time when a copy of Annexure-1 was served upon the Executive Officer. The petitioner did not convene a meeting as he was requested by Annexure-1. The requisitionists thereupon requested the Executive Officer to issue a notice and the Executive Officer, without keeping on record evidence of service of Annexure-1 to the petitioner, issued the -notice convening the meeting and thereby acted improperly. The Act obliges the requisitionists to make the requisition a valid requisition to submit the same to the Pramukh. Unless the requisition is submitted to the Pramukh, the requisition itself is invalid. Without serving the requisition to the Pramukh, the requisitionists cannot ask the Executive Officer to convene the meeting.

2. Be that as it may, the meeting was convened pursuant to the notice as aforesaid. At the meeting the petitioners were removed from the posts of Pramukh as well as Up-pramukh. Neither in the requisition, nor in the notice, any reason in support of the motion had been mentioned, which appears to be a requirement of law. However, for that reason the petitioners did not suffer any prejudice inasmuch none of the petitioners attended the meeting. After the meeting was held and they were removed, again a meeting was held for the purpose of supplying the vacancy caused by such removal and both the petitioners participated in the said meeting proceeding on the basis that the same was a valid and legal meeting. While the Petitioner No. 1 participated in the meeting, the Petitioner No. 2 even offered himself for one of the posts for which election was to be held. In such a situation, if I interfere either with the requisition or with the notice or with the meeting being the subject matter of challenge in the instant writ petition, that would be travesty of justice and would permit the petitioner to have the status restored despite having had participated in the meeting by which with the mandate of the majority the status has been altered. This writ petition accordingly fails. There shall be no order as to costs.