
(2008) 08 PAT CK 0005
In the Patna High Court
Case No : CWJC No. 10605 of 2008

Radhe Raman

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 19-08-2008

Acts Referred:

Bihar Panchayat Raj Act, 2006 — Section 44(3)(v)

Citation : (2008) 4 PLJR 121

Hon'ble Judges : Ramesh Kr. Datta, J

Bench : Single Bench

Judgement

Ramesh Kr. Datta, J.—The main argument advanced by Mr. Y.V. Giri, learned Senior Counsel appearing for the petitioner is that the notice dated 16.7.2008 (Annexure-6) for convening a special meeting for passing a resolution of "No Confidence Motion" against the petitioner, who was Pramukh of the Panchayat Samiti, Phulwarisharif did not contain any reasons/charges, which are mandatory requirements of Section 44(3)(v) of the Bihar Panchayat Raj Act, 2006. It is evident from the said notice that no such charges/reasons are contained therein. However, in the requisition, that was made, as many as five specific charges had been mentioned, but it is not the case of any of the parties that the said requisition was annexed with the notice. Learned Counsel for the respondents, on the other hand, relies upon a decision of a learned single Judge Bench of this Court in the case of Bindu Devi and Another Vs. State of Bihar and Others, in which under similar circumstances, it was held that the petitioners Pramukh and Up-Pramukh in the said case having received the original requisition containing full reasons were made aware of the same and accordingly, they did not suffer at all any prejudice and therefore the motion of no confidence against them was not fit to be interfered with.

2. Section 44(3)(v) of the Bihar Panchayat Raj Act is in the following terms:-

Such reasons/charges on the basis of which no confidence motion has to be moved against the Pramukh and Up-Pramukh shall be clearly mentioned in the

notice of the meeting called for no confidence motion.

3. It is evident from the aforesaid provision that it is couched in mandatory language and it does not merely provide for the communication of the reasons/charges to the Pramukh or Up-Pramukh against whom no confidence motion has to be passed, rather the reasons/charges forming part of the notice have to be communicated to all the elected members of the Panchayat Samiti, who are entitled to consider and discuss the same in the special meeting before casting their vote for or against the "No Confidence Motion".

4. In view of the aforesaid provision of law, it appears that the issue requires to be considered by a Division Bench of this Court.

5. Let this case be placed before the appropriate Division Bench after obtaining the orders of the Hon"ble the Chief Justice. Learned Counsel for the petitioner is directed to file a complete second copy of the brief within a period of one week from today.