

(2024) 01 PAT CK 0075

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1412 Of 2024

Vidya Bharati

APPELLANT

Vs

State Bihar

RESPONDENT

Date of Decision : 23-01-2024

Acts Referred:

Bihar Panchayat Raj Act, 2006 — Section 70(4), 70(5), 157

Citation : (2024) 01 PAT CK 0075

Hon'ble Judges : Purnendu Singh, J

Bench : Single Bench

Advocate : S.B.K. Mangalam, Ramanuj Tiwary, Awnish Kumar, Maruth Nath Roy

Final Decision : Disposed Of

Judgement

1. Heard Mr. S.B.K. Mangalam, learned counsel appearing on behalf of the petitioner and Mr. Maruth Nath Roy, learned AC to learned SC-4 for the respondent/s.

2. Petitioner has prayed for following relief(s) in paragraph no. 1 of the writ petition, which inter alia is reproduced hereinafter:

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the requisition dated 05.01.2024 submitted by 13 elected members of Zila Parishad, Buxar and addressed to the petitioner, whereby and where under they had made a grievance from the writ petitioner either to resign from the post or to convene the special meeting of Zila Parishad for consideration of No Confidence Motion against her.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the notice dated 14.01.2024 issued by the Respondent no.4 and contained in his letter no.399 dated 14.01.2024, whereby and where under the Respondent no. 4 has been pleased to request the petitioner to attend the special meeting of Zila Parishad convened on 25.01.2024 for consideration of No Confidence Motion against the petitioner.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petition would be found entitled under the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is an honest man and from bare perusal of the allegation made in the requisition for holding a special meeting for ‘no confidence motion’ it cannot be clearly stated that petitioner has misappropriated the fund or in absence of any specific allegation that he has not been holding meeting of the Zila Parishad within the specified times from time to time as prescribed under the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the ‘Act’). In these background, learned counsel submitted that the petitioner found the allegation to be without any substance and the requisition being without fulfilling the requirement of Section 70 (4) of the Act and there is no requirement to call for any ‘no confidence motion’.

4. Petitioner in these background has questioned the action of the Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Buxar who has communicated for holding special meeting of ‘No Confidence Motion’ on 25.01.2024 to be not in accordance with law.

5. Per contra, learned counsel appearing on behalf of the State submitted that the requisitionists may file a fresh requisition if they find any allegation against the petitioner or the petitioner has not held any meeting from time to time of the Zila Parishad. In want of any allegation, the requisition itself has not legal sanctity.

6. Considering the aforesaid submission made on behalf of the parties, as well as, the admitted fact that the notice of requisition for special meeting as contained in ‘Annexure-P-1’ jointly filed by thirteen requisitionists don’t fulfill the requirement of the Act. If any member of the Zila Parishad is aggrieved by the non-functioning of the petitioner or the petitioner is engaged in misappropriation in any manner in that case, they may file their requisition along with the clear allegation made against the petitioner before him for fixing the date of special meeting of ‘No Confidence Motion’ which has been announced to be held on 25.01.2024. Considering that the meeting of ‘No Confidence Motion’ is fixed on 25.01.2024, the requisitionists may file requisition by tomorrow (i.e., 24.01.2024) at 10.30 a.m before the petitioner, as well as, before the District Magistrate on or before 1:00 p.m.

7. If the petitioner receives personal notice of requisitionists by any members of Zila parishad, he may proceed to fix a date of meeting. In alternative, if members choose to make their requisition before the District Magistrate against the petitioner, in that case, the District Magistrate must direct the petitioner to fix a date of meeting in exercise of his power under Section 157 of the Act.

8. In any other situation, the requisitionists or the persons aggrieved by the functioning of the Zila Parishad may approach the Lok Prahari, who will enquire

with respect to the functioning of the petitioner, as Chairman of the Zila Parishad, in that case, the Lok Parhari must submit the enquiry report before the Additional Chief Secretary of the department after holding an enquiry. The Additional Chief Secretary is directed to take final decision in accordance with the provision of Section 70(5) of the Act after providing due opportunity of hearing to the respective parties in case the allegations made against the petitioner is/ are sustainable in accordance with the Act.

9. The petitioner in alternative may avail remedy before the District Magistrate in the manner prescribed under the Act.

10. In light of above order, the meeting which is fixed to be held on 25.01.2024 shall remain suspended .

11. As the order has been passed in the open Court, learned counsel for the State must ensure to communicate this order forthwith to the District Magistrate, Buxar, as well as, to the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, without waiting for pronouncement of the order.

12. Accordingly, the present writ petition is disposed of.