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AFJAL IMAM

v.

STATE OF BIHAR & ORS.  
(Civil Appeal No. 2843 of 2011)

B

APRIL 01, 2011

**[J.M. PANCHAL AND H.L. GOKHALE, JJ.]**

C

*Bihar Municipal Act, 2007 – ss. 27, 25 (4), 23(3), 21(3) and 21(4) – Election of appellant as Mayor of Municipal Corporation – Appellant nominated seven Municipal Councillors to the Empowered Standing Committee – Entitlement of the appellant as well as the members of the Empowered Standing Committee to exercise all the powers as the Mayor and the members of the Empowered Standing Committee as provided in the Act – Held: Entitled – Judgment containing the reasons to follow separately – s. 27 is to be read down harmoniously with ss. 25(4), 23(3), 21(3) and 21(4) – Direction issued to respondent no.3-District Magistrate Patna, Bihar to administer the oath of secrecy u/s. 24 to the seven Municipal Councillors.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2843 of 2011.

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From the Judgment & Order dated 8.7.2010 of the High Court of Judicature of Patna in Civil Writ Jurisdiction Case No. 9981 of 2010.

S.B.K. Mangalam, Rajesh Anand, Ashutosh Pande, Madhumita Singh, Abhay Kumar for the Appellant.

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Santosh Mishra, Gopal Singh, Manish Kumar, Chandan Kumar, Santosh Kumar Tripathi, Neeraj Shekhar for the Respondents.

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The following Order of the Court was delivered

**ORDER**

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1. Leave Granted.

2. Appeal allowed. Impugned judgment and order passed by the Division Bench of the Patna High Court in Writ Petition bearing No.CWJC 9981/2010 dated 8th July, 2010 is set aside. The said writ petition filed by the appellant herein stands allowed in part. Section 27 of the Bihar Municipal Act 2007 shall be read down harmoniously with Sections 25 (4), 23 (3), 21 (3) and 21 (4) of the said Act. The respondent no.3, the District Magistrate Patna, Bihar is directed to administer the oath of secrecy under Section 24 of the Act to the seven Municipal Councillors nominated by the appellant to the Empowered Standing Committee. The appellant as well as the members of the Empowered Standing Committee shall be entitled to exercise all the powers as the Mayor and the members of the Empowered Standing Committee as provided in the Bihar Municipal Act, 2007, in accordance with law.

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3. Judgment containing the reasons to follow separately.

N.J.

Appeal allowed.

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