

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13807 of 2013

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Momtaz Begum @ Momtaz wife of Md. Aarfin, resident of village and P.O. Chirah, P.S. Mahalgaon, District- Araria, Presently Pramukh of Block Panchayat Samiti, Jokihat, District - Araria

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
3. The Director, Panchayati Raj Department, Government of Bihar, Patna
4. The District Magistrate, Araria, District - Araria
5. The Sub-Divisional Officer, Araria, District - Araria
6. The Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jokihat, District - Araria
7. Tarique Anwar Son of Late Jahiruddin, resident of Village and P.O. - Masuria, P.S. Mahalgaon, District -Araria, Presently Up-Pramukh of Block Panchayat Samiti, Jokihat P.O. and P.S. Araria, District - Araria
8. Sri Abdul Qyum Son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District -Araria
9. Sri Abdul Isha Son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District -Araria
10. Sri Nasiruddin Son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
11. Md. Jahid Son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District- Araria
12. Md. Shakir Son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District -Araria
13. Sri Firoz Alam son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
14. Sri Helal Son of not known to the Petitioner Member Of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
15. Smt. Mira Devi wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
16. Sri Ehsan Son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
17. Smt. Bibi Shakila wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
18. Smt. Nasima Khatoon wife of not Known to the Petitioner Member of

Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria

19. Sri Sultan Hazam Son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
20. Sri Ajay Nandann Thakur Son of not known to the Petitioner Member Of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District- Araria
21. Sri Mosai Paswan Son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
22. Smt. Anjuman Ara wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
23. Sri Salique Son of not known to the petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District- Araria
24. Smt. Bibi Khursida wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
25. Smt. Morsida Khatoon wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
26. Md. Wazuddin Son Of not Known to the Petitioner Member Of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
27. Md. Salahuddin Son of not known to the Petitioner Member Of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
28. Smt. Kanchan Devi wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District -Araria
29. Smt. Mira Devi wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District- Araria
30. Sri Birendra Biswas son of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through The Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
31. Smt. Rajani Devi wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
32. Smt. Sahin Pravin wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. And P.S. Jokihat, District - Araria
33. Smt. Farhad Jahan wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
34. Smt. Farhad Naz wife of not known to the Petitioner Member Of Block Panchayat Samiti, Jokihat through the Executive Officer, Block Panchayat Samiti, Jokihat, P.O. and P.S. Jokihat, District - Araria
35. Smt. Farhad Begum wife of not known to the Petitioner Member of Block Panchayat Samiti, Jokihat through the Executive Officer, Block



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CWJC No. 13807 of 2013 with I.A. No. 5142 of 2013

Heard Mr. S.B.K. Manglam, learned counsel appearing on behalf of the petitioner, Mr. Deepak Sahay Jamuar, Assisting Counsel to AAG-6 for the State, Mr. Mrigank Mauli, learned counsel for respondent nos. 7, 8, 17, 19 to 23, 25, 26 and 30 to 38, Mr. Suraj Narain Yadav, learned counsel appearing for respondent nos. 9 to 11, 12 to 16, 18, 24, 27, 28, 39 and 40.



The petitioner is the Ex-Pramukh of Panchayat Samiti Jokihat in the district of Araria and is aggrieved by the no confidence motion passed against her under the provisions of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') in the special meeting held on 24.7.2013, a copy of which is placed at Annexure-3 to the interlocutory application as well as Annexure-R-20/I to the counter affidavit filed by the respondent nos. 7, 8, 17, 19 to 23, 25, 26 and 30 to 38 whereby she has been removed from the post of Pramukh.

The short issue raised by Mr. Manglam, learned counsel appearing on behalf of the petitioner is that neither the requisition was presented to the petitioner in the manner prescribed under Section 44(3)(i) of the Act nor has the petitioner been granted the statutory period prescribed thereunder for fixing the date of special meeting and the members of the Samiti in collusion with the Executive Officer have proceeded to convene the special meeting in complete violation of the statutory provisions. The proceedings of the special meeting present at Annexure-3 and Annexure-R-20/K referred to above does reflect that the petitioner also raised such statutory violation during the course of the special meeting which ultimately ended in her removal.

When the matter is taken up for consideration, learned



counsel for the respondents while agreeing that the 'no confidence motion' passed against the petitioner be set aside in view of the statutory violations yet submits that since the requisition is now in the open hence the petitioner be directed to fix the date for holding the special meeting for consideration of the 'no confidence motion' so moved against her so that she again does seek refuge in technicalities. Mr. Manglam appearing for the petitioner submits that he shall have no objection to the submission / suggestion of the respondents.

Having heard learned counsel for the parties and considering the consensus reached by learned counsel appearing for the contesting parties, the 'no confidence motion' dated 24.7.2013 as contained in Annexure-3 and Annexure-R/I whereby the petitioner stands removed from the post of Pramukh, Block Panchayat Samiti, Jokihat, District-Araria is set aside. The petitioner stands restored to the post of Pramukh.

Mr. S.B.K. Manglam, learned counsel appearing on behalf of the petitioner undertakes that the petitioner would be fixing the date for holding the special meeting on or before 19.01.2015 and shall inform the Executive Officer for the needful. However in case the petitioner avoids to fix the date of special meeting in terms of the undertaking given before this Court by

19.01.2015 then the requisitionist shall be at liberty to fix the date of special meeting on 20.1.2015 in the light of the right vested in them under the provisions of the Act and proceed in the matter in accordance with law.

The writ petition is allowed with the directions / observations aforementioned. The interlocutory application stands disposed of accordingly.

(Jyoti Saran, J)

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