

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17194 of 2018

Khushbu Devi Wife of Sri Satish Singh Resident of Village- Bihta, Post,
Bihta, P.S. Emadpur, District- Bhojpur.

... .. Petitioner

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, Bhojpur.
5. The Sub Divisional Officer, Piro, Bhojpur.
6. The Block Development Officer, Tarari Cum Executive Officer, Panchayat Samiti, Tarari, District- Bhojpur.
7. State Election Commission Through Commissioner, R Block, Patna.
8. The Commissioner, State Election Commission, R Block, Patna.
9. The Secretary, State Election Commission, R Block, Patna.
10. Jitendra Singh S/o Muni Singh Resident of Village + Post- Bihta, P.S. Imadpur, District- Bhojpur.
11. Rekha Devi W/o Lal Babu Singh Resident of Village-Moapkhurd, Post- Khutha, P.S. Imadpur, District- Bhojpur.
12. Manoj Kumar Chowdhary S/o Gyanchand Chowdhary Resident of Village- Labne, Post- Basauri, P.S. Sikarahta, District- Bhojpur.
13. Asgar Ali Mansuri S/o Ashin Mansuri Resident of Village- Nawadih, Post- Chakiyan, P.S. Tarari, District- Bhojpur.
14. Bhola Yadv S/o Prem Chand Singh Resident of Village Post- Chakiyan, P.S. Tarari, District- Bhojpur.
15. Jagdish Singh S/o Ramchandra Singh Resident of Village- Baghdha, Post- Kurmuri, P.S. Tarari, District- Bhojpur.
16. Sangita Devi W/o Rishu Paswan Resident of Village Post- Sikarahta Kalan, P.S. Tarari, District- Bhojpur.



17. Durga Devi, W/o Anil Kumar Ray, resident of village + Post – Bangar, P.S. - Sikarahta, District – Bhojpur.
18. Anshu Devi, W/o Sanjay Kumar, resident of village + Post – Panwari, P.S. - Tarari, District – Bhojpur.
19. Anamika Devi, W/o Anand Mohan Chaturvedi, resident of village – Sikarahta Khurd, Post – Sikarahta Kalan, P.S. - Tarari, District – Bhojpur.
20. Amarjit Giri, S/o Bhikhari Giri, resident of village – Milki, Post – Khutha, P.S. - Imadpur, District – Bhojpur.
21. Mira Devi, W/o Rajendra Bhagat, resident of village + Post – Jethwar, P.S. - Tarari, District – Bhojpur.
22. Ganesh Ram, S/o Ram Prasad Ram, resident of village + Post – Moapkala, P.S. - Imadpur, District – Bhojpur.
23. Santoshi Devi, W/o Sanjay Sharma, resident of village – Chanda, Post – Dev, P.S. - Sikarahta, District – Bhojpur.
24. Mira Devi W/o Niraj Singh Resident of Village- Bishnupura, Post P.S.- Imadpur, District- Bhojpur.
25. Umesh Prasad S/o khirodhar Prasad Resident of Village Post- Sedhan, P.S.Tarari, District- Bhojpur.
26. Vidyawati Devi W/o Rajeev Ranjan Tiwari Resident of Village- Kusumhi, Post- Jamorhi, P.S. Tarari, District- Bhojpur.
27. Maya Devi W/o Harikant Rai Resident of Village- Sarfora, Post- Jamodhi, P.S. Tarari, District- Bhojpur.
28. Dharmendra Sharma S/o Birdha Sharma Resident of Village Post- Karath, P.S. Tarari, District- Bhojpur.
29. Mina Devi W/o Satyendra Singh Resident of Village- Sara, Post- Sara, P.S. Tarari, District- Bhojpur.
30. Virendra Ram S/o Mutur Ram Resident of Village Post- Barkagaon, P.S. Tarari, District- Bhojpur.
31. Sunil Kumar S/o Nathun Ram Resident of Village Post- Dumariyan, P.S. Tarari, District- Bhojpur.



32. Rina Devi W/o Ashok Ram Resident of Village + Post- Tarari, P.S.
Tarari, District- Bhojpur.,

Respondent no. 10 to 32 are the members of Block Panchayat Samiti,
Tarari through the Block Development Officer Cum Executive Officer,
Block Panchayat Samiti, Tarari, P.O. P.S. Tarari, District- Bhojpur.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Amrendra Narayan Rai, Advocate Mr. Amarnath Singh, Advocate Mr. Sanjay Kumar, Advocate
For the State E.C.	:	Mr. Sanjeev Nikesh, Advocate Mr. Amit Shrivastava, Advocate Mr. Girish Pandey, Advocate
For the State of Bihar	:	Ms. Archana Meenakshee, G.P.6 Mr. Prabhat Ranjan, A.C. to G.P.6
For Pvt. Resp.	:	Mr. Dharmendra Kr. Singh, Advocate Mr. Jainendra Kumar, Advocate Mr. Arun Kumar Singh, Advocate
For Resp No. 11,13,14 & 22:	:	Mr. Amarnath Singh, Advocate Mr. Dharmendra Kr. Singh, Advocate Mr. Manish Kr. Singh, Advocate
For Resp. Nos.24,26 & 29:	:	Mr. Arun Kr. Singh, Advocate
For the Respondent/s	:	Mr. Archana Meenakshee -Gp6

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4. 17-01-2019 Heard learned counsel for the parties.

This writ application has been preferred seeking a writ of certiorari to quash and cancel the proceeding of the meeting dated 28.07.2018 of Tarari Panchayat Samiti, and letter no. 832 dated 28.07.2018 issued by the respondent no. 6, whereby a resolution of no confidence motion has been passed against the petitioner by the elected members.

Learned counsel for the petitioner submits that the reliefs prayed in the writ application is fit to be granted on the



solitary ground that the notice vide letter no. 787 dated 21.07.2018 (Annexure-3) by which a meeting of the Panchayat Samiti was convened on 28.07.2018, was not issued in accordance with the provisions of Section 44(3)(v) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the “Act of 2006”).

Learned counsel has also drawn attention of this court towards the provision as contained in Section 46(4) of the Act of 2006, which provides that the notice convening special meeting must give seven clear days time for holding the meeting. He has supported his submissions with a judgment of the learned Coordinate Bench of this Court in the case of **Sita Devi Vs. The State of Bihar** reported in **2009 (3) PLJR 286**; wherein this court has held that the notice of seven clear days time is a mandatory requirement of law and non-observance thereof would lead to a declaration that the special meeting was illegally held and any decision taken in the meeting will be non est in the eye of law.

Learned counsel representing the State Election Commission (Respondent Nos. 7 & 8) as also the private respondents are not disputing the factual and legal position which are apparent from the records and the provisions of the



Act of 2006. It is submitted on behalf of the private respondents that this court may, upon quashing of the impugned order, fix a date for the special meeting.

In the aforesaid view of the matter where it is not in dispute that seven clear days were not provided in the notice as contained in Annexure-3 and the mandatory provision under the Act of 2006 has not been followed, this Court would have no hesitation in setting aside the impugned order as contained in Annexure-4 & 6 of the present writ application. The resolution taken in the meeting will be non est in the eye of law. The impugned orders are set aside.

By virtue of the setting aside of the impugned order now the petitioner will be entitled to be restored to his position from which he was removed.

This will however not come in the way of the Executive Officer-cum-Block Development Officer, Tarari, Bhojpur in proceeding afresh, if occasion so arise.

The writ application stands disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

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