

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 24108 of 2019

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Ramavati Devi (Female), aged about 49 years, wife of Sri Mainejar Singh, resident of Village- Jalalpur, P.O. Bela, P.S. Dariyapur, District- Saran at Chapra, presently Pramukh of Block Panchayat Samiti, Dariyapur, District- Saran at Chapra.

... .. 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, Saran at Chapra, District- Saran at Chapra.
5. The Sub- Divisional Officer, Sonapur, District- Saran at Chapra.
6. The Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, District- Saran at Chapra.
7. Manoj Kumar Yadav (Male), Son of not known to the petitioner Presently Up-Pramukh of Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
8. Manorama Yadav (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
9. Vinita Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
10. Shail Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
11. Mutizan Bibi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
12. Veena Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
13. Sunita Yadav (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through



- the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
14. Manju Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 15. Sunil Chaudhary (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 16. Sanjeev Kumar Gupta (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 17. Rita Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 18. Renu Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 19. Nand Kishore Singh (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 20. Nasima Khatoon (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 21. Gayanti Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 22. Brajesh Prasad Yadav (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
 23. Rakesh Kumar (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.



24. Baban Kumar (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
25. Malti Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
26. Mamta Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
27. Rambabu Rai (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
28. Champa Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
29. Harendra Rai (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
30. Anil Kumar Manjhi (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
31. Imteyaz Khan (Male) son of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
32. Rina Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
33. Usha Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
34. Rubi Kumari (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
35. Ganesh Das (Male) son of not known to the petitioner Respondent is the



Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.

36. Riju Chaudhary (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
37. Babita Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
38. Sumitra Devi (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.
39. Sushila Gupta (Female) wife of not known to the petitioner Respondent is the Panchayat Samiti Member of Block Panchayat Samiti, Dariyapur through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Dariyapur, P.O. and P.S. Dariyapur, District- Saran at Chapra.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. SBK Mangalam, Advocate
For the State	:	Mr. Kumar Alok, SC 7
For the Private Respondents	:	Mr. Sarvdev Singh and Mr. Rajesh Kumar, Advocates

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 06-02-2020

Heard Mr. SBK Mangalam, learned counsel for the petitioner; Mr. Kumar Alok, learned SC 7 for the State and Mr. Sarvedev Kumar, learned counsel appearing on behalf of the private respondents.



2. The petitioner has moved the Court for the following reliefs:

*“(I) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the requisition dated Nil submitted by 18 elected members of the Block Panchayat Samiti, Dariyapur in the office of Respondent no. 6 on 13.11.2019 addressed to the petitioner whereby and where under the members have made a request from the writ petitioner to convene the special meeting of the Block Panchayat Samiti for consideration of a No Confidence Motion against the petitioner; on the ground that the said requisition is not a valid requisition in the eye of law for non-compliance of mandatory provision contained under Sub-Section-3(1) of Section 44 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the Gram Panchayat Act).*

*(II) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the decision of the requisitionists dated Nil filed in the office of Respondent no. 6 on 30.11.2019, whereby and where under they have fixed the date of special meeting of the Block Panchayat Samiti on 09.12.2019 for consideration of No Confidence Motion against the petitioner as also the notice dated 30.11.2019 issued under the signature of Respondent no. 6 and contained in his letter no. 1811 dated 30.11.2019, addressed to the petitioner whereby and where under she has been requested to attend the special meeting of Block Panchayat Samiti on 09.12.2019 convened for consideration of No Confidence Motion against her on the ground that:-*

(a) If the requisition itself is a bad requisition in the eye of law for non-compliance of the mandatory provisions contained under Sub-Section-3(i) of Section- 44 of the Gram Panchayat Act, all subsequent action in pursuance of the said requisition including the decision of the requisitionists to fix the date of special meeting on 09.12.2019 and consequential notice issued by the



Respondent no. 6 are bad in law and is, therefore, fit to be set aside; and

(b) The decision of the requisitionists to convene the meeting on 09.12.2019 as also the notice issued by the Respondent no. 6 is further fit to be set aside on the ground that under the scheme of the Act, if the law provides that the special meeting has to be convened necessarily within 15 days from the date of service of requisition upon the Pramukh, no special meeting can be convened after 15 days from the date of receipt of requisition by the Pramukh. In this case since the petitioner had rejected the requisition on 22.11.2019 itself for the reasons incorporated in her letter no. 64 dated 22.11.2019 addressed to the Respondent no. 6, the requisitionists cannot fix the date of special meeting after 15th day from the date when their requisition was allegedly received by the petitioner through the Respondent no. 6.

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

3. On 06.12.2019, the Court had issued notice to the private respondents and had recorded in detail the requirements for valid service of requisition for calling a Special Meeting for considering No Confidence Motion against the *Pramukh* and had also referred to certain decisions of the Court.

4. Pursuant thereto, counter affidavit has been filed on behalf of the private respondents and on behalf of the authorities of the State also.

5. At the very outset, learned counsel for the State and private respondents fairly submitted that the facts which have



been recorded in the order dated 16.12.2019, with regard to no personal service having been effected on the *Pramukh* and only the copy submitted to the Block Development Officer having been forwarded, not being in dispute, the issue is more or less similar to that in **Komal Anita Singh vs. State of Bihar** reported as **2020(1) BLJ 246**, which has been allowed. However, it was pointed out that the Court had clarified the matter observing that the said setting aside of the entire process of requisitioning of the Special Meeting and fixing of the date for the same being set aside would not be hit by the barrier of Section 44(3)(ii) for moving fresh requisition with regard to convening of a Special Meeting for considering a motion of No Confidence against the petitioner, in accordance with law.

6. Having regard to the aforesaid, adopting the reasoning recorded in the earlier order dated 06.12.2019 and the decision in **Komal Anita Singh** (supra), the present writ petition stands allowed. The notice for requisition dated 13.11.2019, not having been validly served on the petitioner in terms of the provisions of the Act, the convening of the Special Meeting, which was scheduled for 09.12.2019, though not held, stands vitiated. Further, no Special Meeting can be held pursuant to such notice of requisition dated 30.11.2019.



7. However, as no Special Meeting was held, the observation made by the Court in paragraph no. 10 of the order dated 10.12.2019 passed in CWJC No. 24482 of 2019, shall apply in the present case also.

(Ahsanuddin Amanullah, J.)

P. Kumar

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