

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 238 of 2021

In

Civil Writ Jurisdiction Case No. 7631 of 2020

Reeta Devi
Reeta Devi, aged about 29 years (Female), wife of Vishal Kumar,
resident of ward No. 9, Gola Road, Ramgarhwa, Post and Police Station
– Ramgarhwa, District – East Champaran at Motihari, Bihar – 845433.

..... Appellant

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 District Magistrate East Champaran at Motihari.
4. The Sub-Divisional Officer, Raxaul, district – East Champaran at Motihari.
5. The Block Development Officer - Cum – Executive Officer, Block Panchayat Samiti, Ramgarhwa, P.O and P.S Ramgarhwa, District – East Champaran at Motihari.
6. The State Election Commission (Panchayat), Bihar, Patna.
7. The Up-Pramukh, Block Panchayat Samiti, Ramgarhwa, Post and Police Station – Ramgarhwa, District – East Champaran at Motihari.
8. Shiv Kumari Devi, aged about 46 years (Female), wife of Prem Chandra Prasad Yadav, Resident of Village – Yogwalia, P.O – Persauna Madan, P.S Ramgarhwa, District East Champaran at Motihari.
9. Ram Bahadur Pandey, Male, Son of not known to the Appellant.
10. Kamal Hazra, Male, son of not known to the appellant.
11. Priyanka Tiwary, Female, wife of not known to the appellant.
12. Rampukar Thakur, Male, son of not known to the appellant.
13. Sugandhi Devi, Female, wife of not known to the appellant.
14. Koshila Devi, Female, wife of not known to the appellant.
15. Sushil Mishra, Male, son of not known to the appellant.



16. Kalimullah, Male, son of not known to the appellant.
17. Dhani Lal Sah, male, son of not known to the appellant.
18. Geeta Devi, female, wife of not known to the appellant.
19. Anjay Kumar, male, son of not known to the appellant.
20. Bindu Devi, female, wife of not known to the appellant.
21. Rizwana Praveen, female, wife of not known to the appellant.
22. Kusum Devi, female, Wife of not known to the appellant.
23. Sojara Khatoon, female, wife of not known to the appellant.
24. Annu Devi, female, wife of not known to the appellant.
25. Munni Devi, female, wife of not known to the appellant.
26. Gulam Rasool, male, son of not known to the appellant.
27. Sahnaz Begum, female, wife of not known to the appellant.
28. Kalawati Devi, female, wife of not known to the appellant.

29. Md. Irfan, male, son of not known to the appellant.

Serial No. 8 to 29, all are members of Block Panchayat Samiti, Ramgarhwa, post and Police station – Ramgarhwa, District – East Champaran at Motihari through the Block Development officer – cum – Executive Officer, Block Panchayat Samiti, Ramgarhwa, post and Police station – Ramgarhwa, District – East Champaran at Motihari.

..... Respondents,

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Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. S.S. Sinha, Advocate Mr. Ajay Kumar Singh, Advocate
For the State	:	Mr. P.N. Shahi, AAG-6 Mr. Mritunjay Kumar, A.C. to AAG-6
For State Election Commission:		Mr. Amit Shrivastava, Advocate Mr. Girish Pandey, Advocate Mr. Sanjeev Nikesh, Advocate
For Private Respondent/s:		Mr. Mr. S.B.K. Manglam, Advocate
For the Respondents	:	Mr. Awnish Kumar, Advocate



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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 09-06-2021

The present Letters Patent Appeal has been preferred against the judgment dated 22nd of February, 2021 passed by a learned Single Judge of this Court in C.W.J.C. No. 7631 of 2020, titled as Shiv Kumari Yadav Vs. The State of Bihar & Ors. allowing the writ petition in terms of prayers thereof.

2. The background leading to the filing of the instant appeal being that for the Block Panchayat Samiti, Ramgarhwa, elections were held and one Ms. Rita Devi was elected as a Pramukh, against whom a No Confidence Motion was moved, leading to her removal in the year 2018, whereafter Smt. Shiv Kumari Yadav was appointed as the Pramukh, against whom also, a requisition for removal by way of a No Confidence



Motion was moved on 21st of August, 2020 by 15 members out of total 24 elected members, however due to non convening of special meeting by the Pramukh and the Up-Pramukh requisitionists fixed a date of convening the special meeting on 5th of September, 2020, wherein, the Pramukh i.e. Smt. Shiv Kumari Yadav stood removed, which action was challenged by filing a writ petition being C.W.J.C. No. 7631 of 2020 titled as Shiv Kumari Yadav Vs. The State of Bihar & Ors.

3. Noticeably, before the judgment came to be delivered by the learned Single Judge, pursuant to the resolution dated 5th of September, 2020, Smt. Rita Devi, the present appellant, stood elected as the Pramukh.

4. The learned Single Judge allowed the writ petition and set aside the proceedings dated 5th of September, 2020 as also the notice of requisition dated 21st of August, 2020, whereby petitioner, namely, Smt. Shiv Kumari Yadav stood removed on the ground of procedural infirmity in convening the meeting by the requisitionists.

5. Resultantly, the present appeal assailing the judgment passed by the learned Single Judge.



6. After the matter was heard for some time, with the consent of the parties, we pass the following order on the mutually agreeable terms:

(a) The question of law as to whether the provisions of Section 46(4) can be invoked/applied with respect to proceedings under Section 44 of the Act, is left open;

(b) The rival contention of the parties that the stand taken by the writ-petitioner of being unwell, prompting her to seek deferment of the meeting and also non-receipt of the notice, are left open, for the judgment otherwise, on facts, needs to be set aside. Order accordingly.

(c) Parties agree that the resolution dated 21st of August, 2020 be put to vote in a special meeting which can be convened within next forty eight (48) hours;

(d) A meeting for such purpose shall be held on 12th of June, 2021 at 1:30 P.M. at the headquarters of the Block Panchayat Samiti, Ramgarhwa;

(e) The Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Ramgarhwa shall communicate the order to all the elected representatives of the said Panchayat Samiti;



(f) In fact, learned counsel appearing for the respective parties (in the Letters Patent Appeal/ Writ Petition) undertake to communicate the order to their clients during the course of the day;

(g) Needless to add, the meeting is to be presided over by a person in terms of Section 44(3)(i).

(h) If the Up Pramukh fails or refuses to preside over the special meeting, it shall be open for 1/3rd of the directly elected members present in the meeting to choose a person for presiding over the meeting and carry out the proceedings of putting the motion to vote;

(i) Needless to add, the voting shall take place only by way of a secret ballot and the meeting shall not be adjourned in any circumstances.

(j) If the resolution expressing No Confidence against the writ-petitioner namely Smt. Shiv Kumari Yadav is carried through by way of a majority vote, the resultant consequence of outcome of the meeting shall follow, including restoration of Ms. Rita Devi as Pramukh;

(k) All Authorities, including the Election Commissioner shall facilitate the entire process, ensuring democratic will and process prevail.



(1) The impugned judgment dated 22nd of February, 2021 passed in C.W.J.C. No. 7631 of 2020, titled as Shiv Kumari Yadav Vs. The State of Bihar & Ors. stands modified to the extent indicated above.

7. The Letters Patent Appeal stands disposed of in the aforesaid terms.

8. Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	09.06.2021
Transmission Date	

