

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7382 of 2020

Kumari Meera Sinha @ Kumari Meer Sinha son of Sri Rajesh Kumar Sinha
resident of Village and P.O. Chhabilapur, P.S. Manpur, District- Nalanda at
Biharsharif, presently Chairman of Zila Parishad, Nalanda at Biharsharif.

... .. 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 District Magistrate, Nalanda at Biharsharif, District- Nalanda at Biharsharif.
4. The Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
5. Sangita Kumari wife of not known to the petitioner, Presently Vice Chairman, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
6. Narottam Kumar son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
7. Purushottam Jain son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
8. Balmukund Paswan son of not known to the petitioner The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
9. Anirudh Kumar son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
10. Bipin Kumar son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
11. Sunita Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
12. Kamlesh Paswan son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif.



Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.

13. Parvati Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
14. Purushottam Kumar son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
15. Pratima Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
16. Manju Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
17. Gauri Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
18. Satyendra Kumar son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
19. Suraj Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
20. Anshu Kumari wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
21. Sita Ram Prasad son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
22. Vimal Paswan son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
23. Neelam Kumari wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
24. Manju Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development



- Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
25. Anita Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 26. Chandra Kala Kumari wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 27. Meera Kumari wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 28. Kapil Prasad son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 29. Anita Sinha wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 30. Pratima Sinha wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 31. Raghunath Ram son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 32. Ranvir Kumar son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 33. Yashoda Devi wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 34. Sheela Kumari wife of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 35. Niranjana Kumar son of not known to the petitioner, The Member of Zila Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.
 36. Tanjua Kumari wife of not known to the petitioner, The Member of Zila



Parishad, Nalanda at Biharsharif through the Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Nalanda at Biharsharif, P.O. and P.S. Biharsharif, District- Nalanda at Biharsharif.

37. State Election Commission (Panchayat).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar Manglam, Advocate
For the Respondent/s	:	Mr. Kumar Alok, SC-7
		Mr. Amit Srivastava, Sr. Advocate
		Mr. Awadhesh Kr. Sinha, Advocate
		Mr. Kumar Mritunjay Narain, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 09-09-2021

The petitioner was elected as *Adhyaksha* of *Zila Parishad* on 08.08.2018. She has filed this writ application seeking a direction to the Deputy Development Commissioner-cum- Chief Executive Officer, *Zila Parishad*, Nalanda at Biharsharif to bring on record the decision of the District Magistrate, Nalanda whereby he had fixed the date of special meeting of *Zila Parishad* for bringing No Confidence Motion against the her. She has sought for quashing of the notice dated 22.08.2020, issued by Respondent No. 4 convening the said special meeting on 01.09.2020. This writ application was registered on 29.08.2020.

2. It is the petitioner's case that she learnt for the first time through reading a news item published in a local daily on 09.08.2020 that 18 members of *Zila Parishad* had submitted their



requisition to the petitioner as well as Respondents No. 3 and 4 for convening a special meeting for bringing No Confidence Motion. The petitioner asserts in the writ petition that at no point of time any attempt was made by the requisitionists to serve a copy of requisition requesting the petitioner to convene special meeting.

3. On 01.09.2020, a special meeting was held as convened by the District Magistrate, Nalanda and notified by the Deputy Development Commission in which resolution of No Confidence Motion has been passed against the petitioner. The petitioner has questioned the legality of the said resolution of No Confidence Motion having been passed against her by seeking amendment in the writ petition through I.A. No. 01 of 2020.

4. Considering the facts and circumstances, I.A. No. 01 of 2020 is allowed and accordingly the relief sought by the petitioner in the original writ petition stands amended by allowing the petitioner to question the correctness of the said resolution of No Confidence Motion passed against her.

5. There are two aspects of the matter which need to be kept in mind while considering the petitioner's challenge to the impugned action. The tenure of *panchayats* constituted by the general elections in the 2016 expired in June 2021. Because of



COVID-19 pandemic, the election of the said bodies could not be conducted and, therefore, transitional provisions have been made under Bihar Panchayat Raj Act, 2006 (hereinafter referred to as 'the Act') by Bihar Panchayat Raj (Amendment) Act, 2021 postulating constitution of advisory committees in place of dissolved *panchayats/Zila Parishads* during the interregnum period, as per the notification issued by the State Government for the said purpose.

6. For *Zila Parishad* relevant provision has been incorporated by adding sub-section (5) after sub-section (5) of Section 66 of the Act. The outcoming *Adhyaksha* of *Zila Parishad* upon dissolution of *Zila Parishad* by virtue of lapse of time becomes a part of the Advisory Committee. Admittedly, if the petitioner succeeds in this matter, the only relief which she can get is that she may become part of the said Advisory Committee constituted in place of dissolved *Zila Parishad*.

7. Gram Panchayat and Gram Kutchery elections have been notified on 24.08.2021. The election dates have been announced from 24.09.2021 to 12.12.2021.

8. Secondly, my attention has been drawn to the two orders passed by this Court dated 24.06.2021 and 25.06.2021 in CWJC No. 7693 of 2020 and CWJC No. 8641 of 2020



respectively, whereby a coordinate Bench of this Court has passed the following order :-

“Heard Mr. S.B.K. Manglam, learned counsel for the petitioner and Mr. Amit Shrivastava, learned counsel for the Election Commission assisted by Mr. Sanjeev Nikesh.

2. It is admitted position that the tenure of the Panchayat Officer has out lived. Now the office of the Panchayat as Mukhiya and Up-mukhiya is vacant on account of expiry of the tenure and in view of the above, the issue with regard to the legality and validity of removal raised in the present proceeding has lost its relevance and, as such, the Court can not decide the academic issue.

3. In the facts and circumstances of the case, the Court is of the view that the issue raised in the present writ application has become irrelevant.”

9. Despite the aforesaid view expressed by the coordinate Bench of this Court Mr. Manglam, learned counsel for the petitioner has ventured to make his submissions to challenge the impugned action relying on the legal as well as the factual aspects.

10. He has made two broad submissions. Firstly, according to him, when the requisitionists had made their



requisition on 08.08.2020, the petitioner had not completed two years of term in the office of *Adhyaksha* of *Zila Parishad*, which is a condition precedent for invoking the provision under Section 70(4) of the Act. Secondly, the requisitionists did not deliver the requisition for convening special meeting in accordance with clause (i) of sub-section (4) of Section 70 of the Act before transmitting a copy to the District Magistrate.

11. So far as the first challenge is concerned, in Court's opinion, the same deserves to be outright rejected as the language of clause (ii) of sub-section (4) of Section 70 of the Act requires that No Confidence Motion shall not be moved against *Adhyaksha* during first two year period of the tenure. The No Confidence Motion was admittedly moved in the present case on 01.09.2020, whereas the petitioner was elected as *Adhyaksha* on 08.08.2018. Signing or delivery of requisition, as contemplated under Clause (1) of sub-section (4) of Section 70 of the Act, cannot be treated to be the date of movement of No Confidence Motion within the meaning of sub-clause (ii) of sub-section (4) of Section 70 of the Act. In any view of the matter, the petitioner had admittedly completed two years on 07.08.2020 upon her election on 08.08.2018 as *Adhyaksha* of *Zila Parishad*.

12. On the question as to whether the requisition was



delivered to the petitioner or not, it has been asserted by the petitioner that she learnt only through newspaper reports published on 09.08.2020 but the requisition was in fact was never delivered to her.

13. It is the case of the respondents, as emerging from the averments made in the counter affidavit that the requisition was delivered to a Clerk in the office of the *Zila Parishad* who had handed the same over to the official peon of the petitioner. The peon is said to have handed over the requisition to the daughter-in-law of the petitioner as instructed by the petitioner.

14. Mr. Manglam, learned counsel appearing on behalf of the petitioner has argued that evidently the requisition was not delivered to the petitioner by the requisitionists who are attempting to make out a false case of compliance of requirement of delivery of requisition by creating stories and fabricating documents. He has taken this Court to the pleadings and counter pleadings on record to contend that the requirement of delivery of requisition, as contemplated under the provisions of the Act, was not fulfilled.

15. Mr. Kumar Alok, learned SC-7 for the State has submitted that since a coordinate Bench of this Court has taken a view that with the term of the Panchayat Body itself coming to an



end, the question of legality or otherwise of passing of No Confidence Motion has become academic and lost its relevance, this court may decline to go into the merits of the case as it will serve no purpose.

16. Mr. Amit Srivastava, learned Senior Counsel for the State Election Commission has argued that from the petitioner's own showing she had knowledge about the fact that members of *Zila Parishad* had filed requisition for convening special meeting to move no confidence motion, though through media reports. In such circumstance, he contends that the plea taken by the petitioner that a copy of requisition was not available to her is highly improbable and is unacceptable.

17. In reply, Mr. Manglam has submitted that unless delivery of requisition is in accordance with the statutory requirement the same cannot be treated to be valid for the purpose of invoking the provisions under Section 70(4) of the Act.

18. Considering the nature of pleadings available on record the question as to whether the petitioner had in fact received the requisition and was delivered under her instructions has become disputed question of fact which cannot be gone into at this stage when the elections have already been notified. Secondly, the constitution of Advisory Committee of *Zila*



Parishad after dissolution of Panchayat bodies with the expiry of term is a fortuitous circumstance.

19. In the given facts and circumstances of the case, I am not inclined to entertain this writ application only for the purpose of her desired inclusion in the Advisory Committee constituted till the elections are held since the election has already been announced.

20. It has rightly been pointed out by Mr. Kumar Alok, learned SC-7 that in any view of the matter, the questions raised by Mr. Manglam has become academic.

21. Considering the facts and circumstances, this writ application is dismissed.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.09.2021
Transmission Date	NA

