

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.401 of 2024

1. Suraj Kumar Paswan Son of Rajaram Paswan, resident of Village-Ward No. 12, Paanr, P.S.-Dalsinghsarai, District-Samastipur.
2. Kanahaiya Lal Chaudhary, Son of Late Sadanand Chaudhary, resident of Village-Keota, P.S.-Dalsinghsarai, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The District Magistrate cum District Election Officer, Samastipur.
3. The District Panchayati Raj Officer, Samastipur.
4. The Sub Divisional Officer, Dalsinghsarai, District-Samastipur.
5. The Block Development Officer cum Executive Officer, Prakhand Panchayat Samiti, Dalsinghsarai, District-Samastipur.
6. Sri Sanjeev Kumar, son of Shankar Singh, Pramukh, Panchayat Samiti, Dalsinghsarai, District-Samastipur, resident of Village-Basarhia, P.S.-Dalsinghsarai, District-Samastipur.
7. Smt. Amirti Devi, Wife of Awadh Kishore Paswan, Up-Pramukh Panchayat Samiti, Dalsinghsarai, District-Samastipur, resident of Village-Ajnaul, P.S.-Dalsinghsarai, District-Samastipur.
8. Amita Devi, Wife of Ramprit Sah, Up-Pramukh Panchayat Samiti, Dalsinghsarai, District-Samastipur, resident of Village-Sultanpur, P.S.-Ghato, District-Samastipur.
9. Dinesh Kumar Mahto, Son of Bashudev Mahto, resident of Village-Sultanpur, P.S.-Ghato, District-Samastipur.
10. Haidar Ali, Son of Abdul Samad Ansari, resident of Village-Chakbahuddin, P.S.-Dalsinghsarai, District-Samastipur.
11. Pinki Devi, Wife of Amarkant Prasad, resident of Village-Mukhitiyarpur Salkhanni, P.S.-Dalsinghsarai, District-Samastipur.
12. Kunti Devi, Wife of Sonelal Singh, resident of Village-Mukhitiyarpur Salkhanni, P.S.-Dalsinghsarai, District-Samastipur.
13. Priti Devi, Wife of Ramanand Paswan, resident of Village-Harishankarpur, P.S.-Dalsinghsarai, District-Samastipur.
14. Raj Kumari, wife of Bipin Ray, resident of Village-Keota, P.S.-Dalsinghsarai, District-Samastipur.
15. Ravina Sharma, wife of Rajesh Kumar Sharma, resident of Village-Nagargama, P.S.-Dalsinghsarai, District-Samastipur.
16. Madhuri Kumari, Wife of Deepak Kumar, resident of Village-Pagra, P.S.-Dalsinghsarai, District-Samastipur.
17. Ram Udgar Singh, Son of Jagan Singh, resident of Village-Basarhia, P.S.-Dalsinghsarai, District-Samastipur.
18. Nirmala Kumari, Wife of Arvind Kumar, resident of Village-Bulakipur, P.S.-Dalsinghsarai, District-Samastipur.
19. Anamika Singh, Wife of Anil Singh, resident of Village-Kamraw, P.S.-Dalsinghsarai, District-Samastipur.



20. Rakesh Kumar Thakur, Son of Prabhu Thakur, resident of Village-Malpur Purwari Patti, P.S.-Dalsinghsarai, District-Samastipur.
21. Kavita Devi, Wife of Rajesh Kumar, resident of Bambaiya Harlal, P.S.-Dalsinghsarai, District-Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ujjwal Kumar, Adv.
For the Respondent/s : Government Advocate-9
Mr. Vinay Ranjan, Advocate/

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 12-08-2024 Heard the parties.

2. This writ application has been filed for the following relief(s):-

i) For quashing the Notice dated 01.01.2024 issued by the Dalsinghsarai Panchayat Samiti (Respondent No.5) calling upon meeting for discussing no confidence motion against the Pramukh (Respondent No.6) and Up-Pramukh (Respondent No.7) in as much as it is bad in law and further it has been brought under conspiracy to frustrate the purpose of no confidence motion.

(ii) For a direction to the respondents authorities concern to enquire in to the motion alleged to have been moved by the same of the Panchayat Samiti members and if it is found to be not in accordance with law and has been filed with vested interest then reject the motion and take necessary action against the members concern in accordance with law.

(iii) For holding that the no-confidence motion proposed by such members who were not physically present and can not be treated for valid motion of no-confidence motion. And for any other relief(s)/for which the petitioner are found to be entitled in the facts and circumstances of the case.

3. The petitioners are the members of Dalsinghsarai



Panchayat Samiti and are aggrieved by the requisition made by the other elected members who wanted the special meeting to be convened to discuss 'No Confidence Motion' against 'Pramukh' and 'Up-Pramukh'.

4. The basic contention of the petitioners is/are that both the 'Pramukh' and the "Up-Pramukh' connived with the elected members to move this requisition so that the same is defeated and they may have uninterrupted tenure till the term comes to an end.

5. Earlier, the matter was taken up by a Co-ordinate Bench on 09.01.2024 and considering the submissions put forward by the parties, a direction was issued to the District Magistrate, Samastipur to decide the matter under Section 157 of the Bihar Panchayat Raj Act, 2006 (for short 'the Act') and till then the proposed meeting to be held on 11.01.2024 was stayed.

6. Subsequently, a counter affidavit has been filed by the Respondent, District Magistrate, Samastipur himself and paragraphs-10 to 17 of the same read as follows:-

"10. That Pramukh and Up Pramukh took their change on 31.12.2021 and the petition for no confidence motion has been submitted on 01.01.2024 by the one third elected members of the Panchayat Samiti, hence, the present petition for 'no confidence motion' has been submitted after 2



years, which is correct. Total no. of the members of Panchayat Samiti is 18 and 7 members have filed petition.

A photocopy of petition dated 01.01.2024 submitted by the elected Panchayat Samiti members for 'no confidence motion' against the Pramukh & Up Pramukh is annexed herewith and marked as Annexure-F & G to this counter affidavit.

11. That thereafter the Pramukh, Sanjeev Kumar fixed the date of meeting on 11.01.2024 for 'no confidence motion' against the Pramukh and UP pramukh, Dalsingsarai vide Letter No.- 01/Dated-01.01.2024.

A photo copy of Letter Nol dated 01.01.2014 is annexed herewith and marked as Annexure-H to this counter affidavit.

12. That thereafter notice to all the elected members of the Panchayat Samiti, Samastipur were informed by the Executive Officer-cum-BDO, Dalsingsarai vide Letter No.- 02/Dalsingsarai, Dated-01.01.2024.

A photocopy of Letter No.- 02/Dalsingsarai dated-01.01.2024 is annexed herewith and marked as Annexure-I to this counter affidavit.

13. That thereafter Letter No.-03/ P.S. under the signature of the Executive officer-cum BDO, Dalsingsarai was sent addressed to the SDO, Dalsingsarai for maintaining law and order.

And copy of the same Memo were also transpired to the SHO, Dalsingsarai to the BPRO, Dalsingsarai, to the DPRO, Samastipur, to the DDC, Samastipur and to the District Magistrate, Samastipur for



information and necessary action.

A photocopy of Letter No.03/P.S. Dalsingsarai, dated 01.01.2024 is annexed herewith and marked as Annexure-J to this counter affidavit.

14. That as per section 44-(3)(i), if Panchayat Raj Act, 2006, provision is that one third elected members of the Panchayat Samiti can file requisite for meeting of 'no confidence motion'. Here Total 18 elected members of the Panchayat Samiti, and 7 (seven) elected members of the Panchayat Samiti have submitted a petition for meeting for 'no confidence motion' against the Pramukh and Up Pramukh of the Block-Dalsingsarai, which is correct as per the provision.

15. That with regard to the section 44-(3) (iv), it is necessary to motion the reason for filing requisite for meeting for no confidence motion against the Pramukh and Up Pramukh of the Block-Dalsingsarai, and from perusal of the requisite submitted, it transpires that clear charge/reasons have already been mentioned in the requisite.

16. That with regard to the clause 7(v) of the Letter No.2535, Dated-16.09.2008, it has been mentioned that the meeting is to be held within 15 days from the date of filing of requisite, and the date of meeting has been fixed on 11.01.2024 and notice has been issued by the Executive Officer-cum-BDO Dalsingsarai on 01.01.2024, whose Tamila has been received, in time, hence it is as per law.

17. That on 13.01.2024 all the seven elected Panchayat Samiti members were called for by the enquiry officer in the office of the BDO, Dalsingsarai, then all the seven members, who filed the requisite, were and their signature were verified from the signature put on the previous meetings of the Panchayat Samiti and prima facie their signatures were found correct. That all the seven members submitted a written report before the enquiry officer Mrs. Priyanka Priyadarshini, Senior Deputy Collector, Samastipur and all of them have accepted that they have put their signature on the



requisite for 'no confidence motion' all of them were present in the campus of the Panchayat Samiti Bhawan and none of them were hidden by anybody. And they are not in the pressure of anybody.

A photocopy written report dated 13.01.2024 submitted by all the seven members of the Panchayat Samiti is annexed herewith and marked as Annexure-K to this counter affidavit.”

7. A perusal of counter affidavit filed by the D.M., Samastipur himself would show that:

(i) One-third of the elected members made a requisition after the two years period came to an end against both the ‘Pramukh’ and ‘Up-pramukh’,

(ii) accordingly, the letter no. 02/Dalsinghsarai, dated 01.01.2024 was issued informing all the elected members about the meeting to be held on 11.01.2024.

8. After the order passed by the Co-ordinate Bench of this Court on 09.01.2024 and on the direction of the respondent, DM, Samastipur, on 13.01.2024, all the seven elected members who had made a requisition were called by the Inquiry Officer in the office of the Block Development Officer, Dalsinghsarai and they put in their respective signatures. It was verified with the signatures on record and were found to be absolutely correct.

9. They further informed that neither they are under threat by anyone nor have they been pressurized by anybody.



The report is part of the counter affidavit as Annexure-K to the writ petition.

10. A rejoinder has been filed by the petitioners wherein now they have taken a ground that the requisition does not show specific charges of misconduct. Further, the signatures should have been sent to the hand-writing/forensic expert instead of verifying the same by themselves and taking a decision.

11. From the aforesaid facts, it is clear that the seven elected members had made the requisition, it was made after two years period came to an end, subsequently, notices were issued for fixing the date of the special meeting on 11.01.2024. The petitioners thereafter rushed to this Court and a direction was given to the District Magistrate, Samastipur to make an inquiry.

12. Subsequently, the respondent-District Magistrate, Samastipur inquired into the matter through Senior Deputy Collector and the report clarified that all the seven elected members have signed the documents without any pressure and in that background, the claim of the petitioner that the signatures should have been sent to the Forensic laboratory is fit to be rejected.



13. Further, this Court has gone through the allegation that is part of the notice dated 01.01.2024 and finds that the reasons have been assigned with the request to convene the special meeting. The second contention is thus also rejected.

14. A valid requisition was made by the one third of the elected members showing their no confidence against the 'Pramukh' and the "Up-Pramukh". It followed the issuance of notice and the special meeting was to be held on 11.01.2024. However, due to the frivolous petition preferred by the petitioners who claimed to be the elected members of the said Panchayat Samiti but do not want the holding of the special meeting and in the process, tried to circumvent the democratic process which resulted into postponement of the special meeting which was to be held on 11.01.2024 till today (12.08.2024) when the matter is being taken up.

15. The facts have been incorporated, the inquiry report in on record, the District Magistrate, Samastipur himself has signed the affidavit and this takes the Court to the only one conclusion, the writ petition is fit to be dismissed with exemplary cost.

16. Accordingly, ordered.

17. The writ petition being ill advised, ill conceived



and frivolous one with the sole intention of the two petitioners to put spoke in the wheels of democratic process which was moving towards the special meeting on 11.01.2024. It is thus dismissed with a cost of Rs. 10,000/- which the two petitioners are required to deposit with the District Legal Services Authority, Samastipur in next two weeks. Failure to do so, appropriate steps will be taken in accordance with law for realization of the amount from the two petitioners.

18. The interim order passed by the Co-ordinate Bench on 09.01.2024 stands vacated.

19. The respondents/authorities are directed to take immediate steps for convening special meeting to discuss 'No Confidence Motion' against both the 'Pramukh' and "Up-Pramukh' of Dalsinghsarai Panchayat Samiti. The date must come in next seven days.

20. Let a copy of the order be communicated to the District Magistrate, Samastipur for his perusal and necessary orders.

(Rajiv Roy, J)

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