

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.528 of 2024

Brajesh Kishore Sinha Son of Late Nawal Kishroe Sinha R/O Village Sarathua, Anchal-Daniawan, P.S. Sahjhanpur, District Patna, at Present R/o Flatno. 401, Deo Sidhi Plaza, East of Kankarbagh Colony More, P.S. Kankarbagh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additinal Chief Secreary, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Additional Chief Secretary, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Panchayati Raj, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Collector-Cum-Distirct Magistrate, District-Patna.
5. The District Panchayat Raj Officer, Patna.
6. The Block Development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, District-Patna.
7. Vinod Kumar Son of Not Known, Member Panchayat Area No.08, Block-Daniawan, Patna. Panchayat Samiti Members of the Block Panchayat Samiti, Daniawan, through the Block development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, Patna..
8. Ajay Paswan Son of Not Known Member Panchayat Area No.09, Block-Daniawan, Patna. Panchayat Samiti Members of the Block Panchayat Samiti, Daniawan, through the Block development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, Patna..
9. Srimati Devi Wife of not Known Member Panchayat Area No.03, Block-Daniawan, Patna. Panchayat Samiti Members of the Block Panchayat Samiti, Daniawan, through the Block development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, Patna..
10. Ritu Devi Wife of not Known Member Panchayat Area No.02, Block-Daniawan, Patna. Panchayat Samiti Members of the Block Panchayat Samiti, Daniawan, through the Block development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, Patna..
11. Gyanendra Kumar Singh Son of not Known, Up-Pramukh, Member Panchayat Area No.07, Block-Daniawan, Patna. Panchayat Samiti Members of the Block Panchayat Samiti, Daniawan, through the Block development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, Patna..
12. Smt. Arti Kumari Sinha Wife of not Known Member Panchayat Area No.01, Block-Daniawan, Patna. Panchayat Samiti Members of the Block Panchayat Samiti, Daniawan, through the Block development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, Patna..
13. Sri Ashok Kumar Son of not Known, Member Panchayat Area No.04, Block-Daniawan, Patna. Panchayat Samiti Members of the Block Panchayat



Samiti, Daniawan, through the Block development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, Patna..

14. Mantush Kumar Son of not Known Member Panchayat Area No.06, Block-Daniawan, Patna. Panchayat Samiti Members of the Block Panchayat Samiti, Daniawan, through the Block development Officer Cum Executive Officer, Block Panchayat Samiti, Daniawan, Block-Daniawan, Patna..

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate
For the Respondent/s : Mr. Kinkar Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 29-01-2024 Heard Mr. Suraj Samdarshi, learned counsel

appearing on behalf of the petitioner and Mr. Kinkar Kumar,

learned counsel for the respondent/s.

2. Petitioner has filed the writ petition for for
following relief(s):

“(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing requisition dated 29.12.23 issued under the signature of Respondent no. 7-10 (Panchayat Samiti members of the Block Panchayat Samiti, Daniawan, Patna), whereby and where under the said members have made a request to petitioner to convene a 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 as the same does not contain clear and specific charges against the petitioner as per the requirement of Section 44(3)(v) of the Bihar Panchayati Raj Act, 2006 and also has been brought within 2 years of election of Pramukh.

(ii) During pendency to the writ application, the Respondents should be directed not to proceed further with the requisition dated 8.1.24 to convene a meeting of the Block Panchayat Samiti for consideration of a no confidence motion against the petitioner.

(iii) This Hon’ble Court may adjudicate and hold that the any requisition for no confidence motion must contain clear and specific charges against the incumbent so that the person who faces a motion of no-confidence may know what he is up against

(iv) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”



3. In compliance of order dated 11.01.2024, a counter affidavit has been filed on behalf of respondents no. 4 to 6 duly sworn by the Block Development Officer-cum- Executive Officer, Daniyawa.

4. Mr. Suraj Samdarshi, learned counsel appearing on behalf of the petitioner submitted that requisition for convening a 'No Confidence Motion' does not contain any clear and specific charges against the petitioner as per the mandatory requirement of Section 44 (3) (v) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act'), as well as, the same has been brought before completion of two years from the election of Pramukh. The special meeting of No Confidence Motion, which was required to be held on 15.01.2024 has not been acted upon by the petitioner. Learned counsel further submitted that if the act of the petitioner is required to be objected in any manner, the same was required to be reported to the Additional Chief Secretary, Panchayati Raj Department for his removal at any point of time by the State Government.

5. Petitioner has been discharging his duty and has been convening meeting regularly and no misappropriation was ever alleged against him. The allegations are not substantiated



by any material, rather the respondents no. 7 to 10 (requisitionists), on frivolous charges have called for the special meeting of 'No Confidence Motion'. Learned counsel further submitted that in absence of any clear charge against the petitioner, the petitioner cannot be held in any manner that he is not complying with the mandatory provision of Section 44 of the Act, 2006.

6. Mr. S.B.K. Mangalam, learned counsel appearing on behalf of respondents no. 7 to 10 admits that term of two years was not completed on the date, the requisition was made on 29.12.2023.

7. Learned counsel for the State also admits that the proceeding books also don't disclose that any complain was made against the petitioner prior to the requisition dated 29.12.2023, nor any complain was made before the Block Development Officer-cum-Executive Officer or before the Additional Chief Secretary to take action against the petitioner on the allegation of corrupt practice misappropriation.

8. Having considered the rival submissions made on behalf of the parties, as well as, the requisition calling for 'No Confidence Motion' against the petitioner. Admittedly, the first requisition was filed before the petitioner by the requisitionists



on 29.12.2023, which is within two years. It cannot be said that petitioner had not followed the prescribed procedure as contained in Section 44 of the Act by rejecting the requisition. This Court, then considering the merits of charges as contained in requisition dated 29.12.2023 do not find that the same contain clear charges. The parties have admitted that the requisition was made prior to the mandatory completion of tenure of the petitioner of two years cannot be sustained in the eye of law.

9. Accordingly, requisition dated 29.12.2023 is hereby set aside and quashed.

10. The writ petition is allowed.

(Purnendu Singh, J)

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