

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.654 of 2024

Mithlesh Kumar son of Bhukhan Yadav, resident of Village Haridaspur, P.S. Bodh Gaya, District Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchayat Raj Department, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The District Panchayat Raj Officer, Gaya, Gaya.
4. The Sub Divisional Officer, Sadar Gaya, District Gaya.
5. The Block Development Officer, Bodh Gaya, District Gaya.
6. Babita Devi, Member Panchayat Samiti, Panchayat Kurmawan, resident of Village Simariya, P.S. Charki, District Gaya.
7. Raj Kumar Manjhi, Member Panchayat Samiti, Panchayat Nawan, resident of Village Ahiyapur, P.S. Cherki, District Gaya.
8. Malo Devi, Member Panchayat Samiti, Panchayat Sekhwara, resident of Village Atiya, P.S. Magadh University, District Gaya.
9. Jipu Kumar, Member Panchayat Samiti, Panchayat Morachim, resident of Village Sirajpur, P.S. Magadh University, District Gaya.
10. Brajesh Kumar Member Panchayat Samiti, Panchayat Moratal, resident of Village Chach, P.S. Bodh Gaya, District Gaya.
11. Mahendra Yadav, Member Panchayat Samiti, Panchayat Kanhol, resident of Village Titoriya, P.S. Bodh Gaya, District Gaya.
12. Gayanti Devi, Member Panchayat Samiti, Panchayat Jhikatiya, resident of Village Mahamanchak, P.S. Magadh University, District Gaya.
13. Biru Kumar Member Panchayat Samiti, Panchayat Basarhi, resident of Village Bataspur, P.S. Bodh Gaya, District Gaya.
14. Manoj Kumar, Member Panchayat Samiti, Panchayat Moratal, resident of Village Pareva, Bodh Gaya, P.S. Bodh Gaya, District Gaya.
15. Sushila Devi, Member Panchayat Samiti, Panchayat Gapha Khurd, resident of Village Gapha, P.S. Bodh Gaya, District Gaya.
16. Shailendra Mohan Singh, Member Panchayat Samiti, Panchayat Ilara, resident of Village Dulsar, P.S. Cherki, District Gaya.
17. Rinku Devi, Member Panchayat Samiti, Panchayat Atiya, resident of Village Atiya, P.S. Magadh University, District Gaya.
18. Mamanta Devi, Member Panchayat Samiti, Panchayat Nawa, resident of Village Simariya, P.S. Cherki, District Gaya.
19. Usha Devi, Member Panchayat Samiti, Shekhwara, P.S. Magadh University, District Gaya, resident of Village Michihar, P.S. Magadh University, District Gaya.
20. Pawan Kumar, Member Panchayat Samiti Panchayat Bara, resident of



Village Matihani, P.S. Magadh University, District Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar, Advocate
For the State	:	Mr. Government Pleader (11)
For respondent nos.6 to 20	:	Mr. Ashok Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-03-2024

Heard Mr. Ashok Kumar, learned counsel appearing on behalf of the petitioner, Mr. learned GP 11 for the State and Mr. Ashok Kumar Jha, learned counsel for respondent nos.6 to 20.

2. Learned counsel appearing on behalf of the petitioner submits that the requisition which has been brought on record by way of Annexure R/1 to the counter affidavit filed on behalf of the respondents No.1 to 4, though addressed in the name of petitioner, was never served to him any time before the Block Development Officer had communicated with respect to holding of special meeting of “No Confidence Motion” against him. He further submitted that power and function of Up-Pramukh is contained in Section 43 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the “Act”). In respect of his contention, learned counsel submits that as per the provision of the sub-Section (a) of Section 43 of the Act, the Up-Pramukh presides over the meeting of panchayat samiti in absence of



Pramukh. The Pramukh was never absent from his duty and there was no occasion at any point of time to preside over the meeting of the panchayat samiti by him. He admits that he has not made any statement to that respect and, as such, he finds it proper to assail the requisition, contained in Annexure R/1, undated, signed by altogether 15 members, which contains specific charge of misappropriation of distribution of fund and allocation on account of in Indira Awas Yojna and if the same is taken into account, the Pramukh, who was present on different dates of special meeting, can only be held responsible for such illegality. He again admits the fact that at no point of time, he being the Up-pramukh or any of the elected members of the panchayat samiti, had complained before the Lok Parhari or to the Additional Chief Secretary for taking action against the Pramukh in this regard. In these backgrounds, learned counsel submitted that the requisition is not sustainable though charges are alleged against him.

3. *Per contra*, learned counsel appearing on behalf of the State submitted that the petitioner cannot be granted relief on account of the fact that the entire procedure for calling of special meeting for “No Confidence Motion” against him is in accordance with law. The panchayat committee, consists of 21



members, out of which 15 members, i.e., more than 1/3rd members have made requisition vide letter dated 13.12.2023 to the Pramukh, Bodh Gaya, for calling of special meeting for “No Confidence Motion” against the petitioner, who had fixed the date on 13.01.2024 and accordingly it was communicated to the Block Development Officer-cum-Executive Officer, Bodh Gaya to inform the elected members including the Up-Pramukh/the petitioner, informing the date of meeting of “No Confidence Motion” to be held on 13.01.2024. Aggrieved by the no confidence called against him, the petitioner filed the present writ petition. This Court *vide* order dated 11.01.2024, had stayed the special meeting which was to be convened on 13.01.2024. Learned State counsel further submitted that considering Annexure R-1 to the counter affidavit, it reveals that the specific charges are contained against the petitioner in the requisition. Learned counsel further submitted that it appears that the petitioner after having interpolated the first page of the notice, annexed to the Annexure P/1 to the writ petition by deliberately suppressing letter dated 13.12.2023, which was received in the office of Block Development Officer-cum-Executive Officer, contained in Annexure R/1 has misled the Court. The charges are clear and on these backgrounds, learned counsel



submitted that the petitioner has not only defeated the mandate of the people, but at the same time he has been engaged in criminal act by forging the document to obtain order from this Court.

4. Heard the parties.

5. It has been alleged in the requisition dated 30.12.2008 (Annexure P/1) that the petitioner has committed gross irregularities in discharge of his duties and government funds were used arbitrarily by him without considering the opinion of the members. Charge has also been levelled against the petitioner for misappropriation of the money allocated for Pradhan Mantri Awas Yojna. In light of these allegations, it is expedient to take note of functions as assigned under the Act. Section 50 of the Act deals with the constitution of various committees and appointment of respective Chairman for each Committee. Section 50 of the Act is reproduced hereinafter:-

“50. Standing Committees-

(1) A Panchayat Samiti shall constitute the following committees by election from among its members for effective discharge of its functions :

- (i) General Standing Committee
- (ii) Finance, Audit & Planning Committee
- (iii) Production Committee
- (iv) Social Justice Committee
- (v) Education Committee



(vi) Committee on Public Health,
Family Welfare & Rural Sanitation

(vii) Public Works Committee

(2) Each committee shall consist of not less than three and not more than five members including the chairman from among the elected members. Each committee can co-opt not more than two members from among experts or public spirited persons for effective discharge of its responsibilities.

(3) The Pramukh shall be the ex-officio member and chairman of the General standing committee and the Finance, Audit & Planning committee and shall nominate a chairman for each of the other committees. The Up Pramukh shall be the chairman of the Social Justice committee. The Pramukh shall not hold charge of chairman of more than three committees including the two as abovementioned : (emphasis supplied)

Provided that each committee shall have at least one woman member and further, social justice committee shall have a member belonging to the Scheduled Castes or Scheduled Tribes.”

6. On careful consideration of Section 50(3) of the Act, it is clearly provided that the Up-Pramukh shall be the Chairman of the Social Justice Committee and the Pramukh to be ex-officio member and Chairman of General Standing Committee and Finance, Audit & Planning Committee.

7. The nature of allegations stated in the requisition can be attributable to the direct control and supervision of social justice Committee, as well as, the General Standing Committee



and Finance, Audit & Planning Committee (hereinafter referred to as the “ Planning Committee”), whose Chairman is the Up-Pramukh.

8. In the present case, allegation is that of fraud committed in distribution of fund allocated for Pradhan Mantri Awas Yojna, and the petitioner has been held accountable for utilization of the fund of the panchayat samiti.

9. Considering the provision of Section 50 of the Act, the contention of the petitioner that charges, as enumerated in Annexure R/1 even are specific charges, the Up-Pramukh is not responsible for holding of the special meeting and had misappropriated government fund. The allegation cannot be sustained. Record reveals that petitioner was the Chairman of Social Justice Committee. The petitioner had participated in passing of the resolution of different agenda in meeting, so held for, he along with the other elected members and Pramukh constituting the committee. are equally responsible for misappropriation of government fund.

10. Under the aforesaid facts and circumstances, the proposed meeting of “No Confidence Motion” which was fixed to be held on 13.01.2024 cannot be held to be in violation of Section 44 of the Act. The petitioner, being the Chairman of



the Planning Committee, and allegation against him is that of misutilization of fund allocated for Pradhan Mantri Awas Yojna, by filing the present writ petition, questioned the special meeting of No Confidence Motion called against him on the ground that the charges are not clear and called for no consideration, requires no consideration. The special meeting is required to be convened in accordance with the provision of Section 44(3) of the Act forthwith, which mandates the Pramukh and in case of failure of the Pramukh, the Up-Pramukh (the present petitioner) or in case of failure of the Up-Pramukh, the elected members/requisitionists to fix a date of special meeting of No Confidence Motion.

11. So far as the allegation of interpolation made by the petitioner in the requisition of the letter dated 13.12.2023, communicated by the Block Development Officer-cum-Executive Officer to the petitioner is concerned, the same is liable for criminal prosecution and action can be taken in this regard by the authorities in accordance with law.

12. The matter requires consideration by the District Magistrate to hold a thorough enquiry by constituting an enquiry team, chaired by him, and two Deputy Collectors, who are not connected in any manner with distribution and



allocation of fund. One competent Account Officer of Accountant General Office, Bihar and other member being officer not less than of Additional Collector, the committee so constituted, is directed to submit the inquiry report within a period of six weeks to the Lok Prahari. The Lok Prahari well within a period of three weeks is directed to submit report in exercise of power under Section 152 of the Act to the Additional Chief Secretary, Panchayat Raj Department. The Additional Chief Secretary after providing due opportunity of hearing to the affected parties, is required to take action against those who are found to be engaged in misappropriation of government money.

13. The writ petition is disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.03.2024
Transmission Date	NA

