

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.617 of 2024

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Priyanka Devi @ Priyanka Pathak W/o Niraj Kumar Pathak, Resident of
Village and P.O.- Niyazipur, P.S. Simri, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Panchayat Raj Department, Government of Bihar, Patna.
3. The Director, Panchayat Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Buxar.
5. The Sub-Divisional Officer, Dumraon, District- Gaya.
6. The Block Development Officer, Simri-cum-Executive Officer, Block Panchat Samiti, Simri, District- Buxar.
7. The District Panchayati Raj Officer, District- Buxar.
8. The Block Panchayati Raj Officer, Simri, District-Buxar.
9. Chandan Kumar, Son of Subhash Kumar, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
10. Pramod Mishra, Son of Kanhaiya Mishra, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
11. Asha Devi, Wife of Bachan Mallah, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
12. Vijay Bin, Son of Chhathu Bin, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
13. Santosh Yadav, Son of Kesho Yadav, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
14. Sangeeta Kumari, Wife of Nirmal Kumar Yadav, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
15. Pushpa Dvi, Wife of Om Prakash Singh, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
16. Dinesh Kumar Sahu, Son of Sati Sahu, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
17. Moti Jhariya Devi, Wife of Shiv Munni Yadav, member of Block Panchayat



- Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
18. Angad Kumar Singh, Son of Ram Byas Singh, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 19. Sushila Devi, Wife of Satyanarayan Dubey, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 20. Sima Devi, Wife of Dinesh Singh, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 21. Anshu Kumari, Wife of Rohit Kumar, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 22. Rachna Kumari, Wife of Pintu Kumar Yadav, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 23. Pinki Devi, Wife of Sri Bhagwan Singh, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 24. Ajay Kumar Ojha, Son of Ramshankar Ojha, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 25. Surajwanti Devi, Son of Srinath Ram, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 26. Devkaliya Devi, Son of Yamuna Yadav, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 27. Virendra Paswan, Son of Late Banwari Paswan, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 28. Subhash Gond, Son of Bhimal Gond, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 29. Manoj Kumar Ojha, Son of Shambhu Nath Ojha, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 30. Bimlesh Kumar Rai, Son of Shiv Kripal Rai, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 31. Deepak Kumar, Son of Gopal Prasad, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
 32. Chandan Kumar, Son of Subhash Kumar, member of Block Panchayat



- Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
33. Kamlawati Devi, Hareram Kunwar, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
34. Simpi Devi, Wife of Surendra Kumar Paswan, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
35. Gayatri Devi, Wife of Pankaj Dubey, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
36. Reema Rai, Wife of Jay Prakash Rai, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.
37. Puja Devi, Wife of Sanjay Kumar Chaurasiya, member of Block Panchayat Samiti, Simri through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Simri, P.S.- Mufassil, District- Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ravi Raj, Advocate
For the Respondent/s : Mr. Mujtabaul Haque, GP 12
For the Resp. No. 10-15, : Mr. K.N Choubey, Sr. Advocate
17, 19, 22, 24, 28 to 31, : Mr. Ashok Kumar Garg, Advocate
33 to 37
For Resp. No. 16 : Mr. Rajesh Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV JUDGMENT

Date : 06-09-2024

Heard Mr. Ravi Raj, learned counsel appearing on behalf of the petitioner, Mr. Mujtabaul Haque, learned GP 12 appearing for the State, Mr. K.N Choubey, learned senior counsel appearing on behalf of the Respondent Nos. 10 to 15, 17, 19, 22, 24, 28 to 31, 33 to 37 assisted by Mr. Ashok Kumar Garg, learned counsel and Mr. Rajesh Kumar Mishra, learned counsel appearing on behalf of the Respondent No. 16.



2. The present writ petition has been filed for the following reliefs:-

(i) For issuance of writ in the nature of Certiorari for quashing the requisitions dated 01.01.2024 (Annexure-2 series) addressed to the Executive Officer-cum-Block Development Officer, Simri. Block-Buxar and directly submitted before the Block Development Officer, Simri-cum-Executive Officer, Block Panchayat Samiti Simri, District-Buxar (Respondent No. 6) received on 01.01.2024 at 10:30 A.M. and 10:31 A.M. respectively to the office of Respondent No. 6, whereby and whereunder a request has been made from Respondent No. 6 (Executive Officer) by the Members of Panchayat Samiti, Block-Simri to convene a Special Meeting of Block Panchayat Samiti to consider No Confidence Motion against the petitioner in teeth of the provisions as contemplated under Sub-sections 3 (i) & 3 (iv) of Section 44 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the Gram Panchayat Raj Act, 2006) and other provisions of concerned Acts and Statutes.

(ii) For issuance of writ in the nature of Certiorari for quashing of the Letter dated 01.01.2024 vide letter No. 02 (Annexure- 3), issued under the signature of Executive Officer, (Panchayat Samiti)-cum-Block Development Officer, Simri. Buxar (Respondent No. 6), whereby and where under, request has been made to fix the date for Special Meeting with respect to consider of want of No Confidence Motion and the same has never presented to the Pramukh (Petitioner) in writing although the same has been addressed to the petitioner and communicated to the Up-Pramukh, Simri Block, Buxar in complete violation of the procedure embodied in the statute.

(iii) For issuance of writ in the nature of Certiorari for quashing of the Letter dated 08.01.2024 (Annexure-4) submitted by the Up-Pramukh, Simri Block, Buxar, whereby and where under on the consultation of the Respondent. No. 6 fix the date of Special



Meeting on 15.01.2024 in complete violation of the mandatory requirements embodied in the Bihar Panchayat Raj Act, 2006 and also ignoring the petitioner in complete violation of Principles of Natural Justice.

(iv) For issuance of writ in the nature of Certiorari for quashing of Letter dated 09.01.2024 (Annexure-5) issued under the signature of Respondent No. 6. whereby and where under the date for convening the Special Meeting for want of No Confidence Motion against the petitioner has illegally and arbitrarily been fixed on 18.01.2024 after 15 days of such requisition in teeth of the provisions embodied under the statute and to quash the entire proceedings with respect to No Confidence Motion against the petitioner on the ground that if the statutory requisition itself was not a valid requisition, without fulfilling the requirements laid down under the Act, behind the back of the petitioner, the proceeding for want of No Confidence Motion against the petitioner is also illegal and unsustainable at all in the eye of law. mandatory

(v) For a declaration that if a particular Statute has prescribed a particular procedure for certain act, the act has to be done in the manner prescribed or not at all. Since the requisitionists members have presented the impugned requisition directly to the Respondent No. 6, neither addressed to the petitioner nor approaching the petitioner by taking plea that in absence of the petitioner, the Up- Pramukh, Simri Block, Buxar has fixed the date of special meeting for want of No Confidence Motion on 15.01.2024 and by ignoring the same, the Respondent No. 6 has fixed the date of convening the Special Meeting for want of No Confidence Motion on 18.01.2024 in a very mechanical manner and against the procedure prescribed under Sub-Section 3(i) and (iv) of Section 44 and Section 46(4) of the Gram Panchayat Act and by making mal practices, the requisitions so submitted by the requisitionists are not valid requisitions in the eye of law and in absence of the same, the entire proceeding/procedures



adopted against the petitioner for want of No Confidence Motion is null and void, therefore, no further action is required to be taken in pursuance thereto.

(vi) For staying the operation of Letter dated 09.01.2024 issued under the signature of Executive Officer-cum-Block Development Officer, Simri, Buxar by fixing the date for Special Meeting on 18.01.2024 and also the entire procedures adopted by the Respondents against the petitioner for want of No Confidence Motion in complete violation of the mandatory requirements embodied in the statute and also in violation of the Principles of Natural Justice, during the pendency of writ petition.

(vii) For any other relief/reliefs for which the petitioner is entitled for in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the present writ petition has been filed for quashing the requisition dated 01.01.2024 as the same is in teeth of the provisions contemplated under sub Section 3(i) and 3(iv) of Section 44 of the Bihar Panchayat Raj Act, 2006 and also for quashing the letter dated 09.01.2024 issued by Respondent No. 6 by which the Respondent No. 6 has illegally and arbitrarily fixed the date of convening the Special Meeting for want of No Confidence Motion on 18.01.2024 having without authority of law.

4. Learned counsel for the petitioner submits that the petitioner has contested for the post of Pramukh and after election, the petitioner was declared elected for the post of



Pramukh of Simri Block on 31.12.2021 and after her election while the petitioner was busy in discharge of her official duties, the opponents in connivance with the State authority has filed a requisition dated 01.01.2024 for convening the Special Meeting. He further submits that that sub-Section 3(i) and (iv) of Section 44 as well as Section 46(4) of the Gram Panchayat Act mandatory requires that such requisition shall be addressed and presented before the Pramukh by the requisitionist and copy of the same shall be given to the Executive Officer. He further submits that it appears from the requisition dated 01.01.2024 that all the procedure which have been adopted by the authority concerned as well as concerned respondents are completely in teeth of the provisions of the Gram Panchayat Act, 2006 and it is also pertinent to point out that the same was done behind the back of the petitioner in complete violation of the principle of nature justice and from perusal of the requisition dated 01.01.2024 it appears that the requisitionist has submitted the aforesaid requisition of No Confidence Motion against the petitioner addressed to the Executive Officer (Respondent No. 6) without mentioning any charge in the said requisition and the said requisition for Special Meeting is neither addressed to the petitioner nor it was presented to the petitioner in writing in



complete violation of Section 44 (3) of the Bihar Panchayat Raj Act.

5. Pursuant to the aforesaid requisition dated 01.01.2024, the Executive Officer cum Block Development Officer, Simri, Buxar has issued a letter dated 01.01.2024 contained in Letter No. 2 addressed to the petitioner to submit before the Up Pramukh (Respondent No. 9) with respect to fix the date of Special Meeting for want of No Confidence Motion against the petitioner in light of requisition dated 01.01.2024 in a very mechanical manner. In pursuance of the order dated 01.01.2024, the Up Pramukh (Respondent No. 9) has illegally and arbitrarily fixed the date of Special Meeting on 15.01.2024 to consider the No Confidence Motion vide letter dated 08.01.2024, in pursuance of Letter dated 01.01.2024 of the Respondent No. 6 by mentioning therein that since the Pramukh of the Simri Block, Buxar (petitioner) is absent, so in absence of the petitioner, in exercise of power under Section 44(3) of the Act, 2006. The Respondent No. 6 has illegally and arbitrarily as well as without authority of law fixed the date for convening a Special Meeting expressing want of confidence in the petitioner on 18.01.2024 and the same has been communicated to some of the members of the Panchayat Samiti of Simri Blok, Buxar vide



letter dated 09.01.2024. He further submits that from perusal of the requisition dated 01.01.2024 and letter for convening a Special Meeting issued on 09.01.2024 as well as other letters issued by the authority concerned are not satisfying the mandatory conditions as prescribed under Section 44, Sub-Section 3 as well as Section 46 and sub Section 4 of the Act, 2006.

6. Mr. K.N Choubey, learned senior counsel appearing on behalf of the Private Respondent Nos. 10 to 15, 17, 19, 22, 24, 28 to 31, 33 to 37 submits that the present matter was taken up on 11.01.2024 and this Court has been pleased to grant one week time to petitioner for taking steps upon the respondents and further directed that in the meantime, the Special Meeting of No Confidence Motion which is proposed to be convened on 18.01.2024 shall remain stayed. He further submits that the petitioner knowingly and deliberately could not complied the order dated 11.01.2024 and could not filed the notice upon the respondents within time as prescribed by the order dated 11.01.2024 with a view to prolong the matter, which resulted the writ application become dismissed for default. The petitioner has filed the MJC No. 566 of 2024 (Restoration Petition) without serving the copy to the respondents and this Court vide



order dated 16.02.2024 restored the present writ petition in its original file.

7. Learned counsel for the respondents further submits that the petitioner has come to this Court with unclean hand and as such she is not entitled to any reliefs as prayed in the present writ petition and the petitioner claims that there was no personal service of the requisition upon her, but she has suppressed the material facts that her husband has already received the notice in person on 01.01.2024 and the petitioner has already stated in the writ petition that she was not present either at her village or at her office and she was in her maika or in hospital in connection with treatment of disease. After dismissal of the writ petition by way of dismissed for default, the respondents requisitionist have given application to the Executive Officer cum Block Development Officer, Simri, Buxar for initiating the proceeding of No Confidence Motion against the Pramukh and Up Pramukh and the same was received by the Respondent No. 6 on the same day and after receiving the application dated 09.02.2024 from the private respondents, the Respondent No. 6 vide memo no. 293 dated 10.02.2024 has requested the petitioner (Prakhand Pramukh) Simri, for fixing the date and time of Special Meeting for No Confidence Motion but the petitioner could not receive



the letter dated 09.02.2024 then the letter dated 10.02.2024 has been affixed on her main door of her house on the same day i.e. on 10.02.2024 (it is evident from the photographs annexed with the supplementary counter affidavit filed by the Respondent No. 6).

8. Learned counsel for the respondents submits that the Respondent No. 6 has sent the memo no. 316 dated 15.02.2024 to the Pramukh stating therein that despite knowledge of memo no. 293 dated 10.02.2024, the petitioner could not fix the date and time of Special Meeting till 15.02.2024, then the Respondent No. 6 has requested to the Up Pramukh for fixing the date and time of Special Meeting for discussion of No Confidence Motion when the Pramukh and Up Pramukh of Simri Block have not fixed the date and time of the Special Meeting of No Confidence Motion, then the Respondent No. 6 has sent a memo no. 325 dated 16.02.2024 to the members of the Block Panchayat Samiti, Simri and requested for convening the Special Meeting for No Confidence Motion and the said letter have been received by the members of the Block Panchayat Samiti, Simri on the same day.

9. Learned counsel for the respondents submits that it is pertinent to mention that when the Pramukh (petitioner) and



Up Pramukh, Simri Block have failed to convened the Special Meeting for No Confidence Motion, then more than 1/3rd members (i.e. 20 Block Samiti Member) of Simri Prakhand have given application dated 16.02.2024 to the Respondent No. 6 under Section 44 (3)(i) of the Bihar Panchayat Raj Act, 2006 for fixing the date on 27.02.2024 at 1:00 pm for Special Meeting of No Confidence Motion against the Pramukh and Up Pramukh. After receiving the application dated 16.02.2024 given by more than 1/3rd members (i.e. 20 members out of 29 members) of Simri Block Samiti, then the Respondent No. 6 under Section 44(3)(i) of the Bihar Panchayat Raj Act, 2006 has issued the memo no. 361 dated 17.02.2024 to the Sub Divisional Officer, Dumraw for providing the Police force on 27.02.2024. The Sub Divisional Officer, Dumraw vide his memo no. 279 dated 19.02.2024 issued direction to the SHO, Simri to maintain his law and order on 27.02.2024 because on that day Special Meeting for No Confidence Motion against the Pramukh and Up Pramukh was fixed. The District Election Officer (Panchayat) cum District Magistrate, Buxar by invoking the power under Section 157 of the Bihar Panchayat Raj Act has nominated Sri Syed Shahjad Ahmad, Learned Deputy Collector Land Reforms, Dumraw as Special Officer for convening the Special Meeting



which was held on 27.02.2024 at 1:00 pm at Prakhanda Sabhagar Bhawan, Simri for No Confidence Motion against the Pramukh and Up Pramukh, Simri.

10. Learned counsel for the respondents submits that the date of Special Meeting for No Confidence Motion against the Pramukh and Up Pramukh was fixed on 27.02.2024 at 1:00 pm and the Pramukh and Up Pramukh of Simri Block have full knowledge about the Special Meeting dated 27.02.2024 because they have received the notice regarding fixing of date of No Confidence Motion on 27.02.2024 and the petitioner has not participated in the Special Meeting of No Confidence Motion on 27.02.2024 despite receiving the notice regarding the same and the Special Meeting was held on 27.02.2024 in which out of 29 members only 20 members have given vote in favour of the No Confidence Motion and accordingly, the Pramukh and Up Pramukh of Simri Block have lost the majority of the house. He further submits that the petitioner has filed IA No. 2 of 2024 on 05.03.2024 for quashing the letter dated 16.02.2024 contained in letter no. 343 issued by the Executive Officer cum Block Development Officer, Simri, Buxar whereby the date of Special Meeting for want of No Confidence Motion against the Pramukh and Up Pramukh, Simri has fixed on 27.02.2024.



Apart from that the petitioner has also filed IA No. 3 of 2024 on 22.03.2024 with a prayer for directing the Respondent No. 6 to stay so-called proceeding dated 27.02.2024 but the petitioner knowingly and deliberately could not serve the copy of both the IA to the respondents and even till date the petitioner has not pressed the aforesaid Interlocutory Applications till the date of argument.

11. It is clear from the aforesaid that the operation of No Confidence Motion in Special Meeting dated 27.02.2024 has not been stayed by this Court and in other words the petitioner has not pursue the aforesaid Interlocutory Applications till 24.06.2024.

12. In view of the aforesaid, the present writ petition has become infructuous because the petitioner has filed writ petition against the requisition of No Confidence Motion dated 01.01.2024 and no cause of action is subsist for which the present writ petition has been filed.

13. Learned Counsel for the respondents further submits that in compliance of the order dated 11.03.2024, all the 29 members of the Panchayat Samiti, Simri were present on 23.03.2024 at 3:30 p.m. in the office of District Magistrate, Buxar for meeting and the matter regarding to the No



Confidence Motion was discussed in the meeting and 20 members of the Panchayat Samiti, Simri submitted that they have passed No Confidence Motion without any pressure and horse trading and 9 members out of 29 members of the Panchayat Samiti, Simri opposed the No Confidence Motion passed on 27.02.2024.

14. It appears that in compliance of the order dated 11.03.2024, the District Magistrate has conducted the meeting and submitted his report dated 23.03.2024 and as per the provisions contained in Section 44 of the Gram Panchayat Act, 2006 and requisition for special meeting has been presented for No Confidence Motion after complying all the procedure prescribed under the Bihar Panchayat Raj Act and in view of the aforesaid, the No Confidence Motion against the Pramukh and Up Pramukh has been passed and the Pramukh and the Up Pramukh have lost the majority of the house and the authority maybe directed to hold the meeting for the election of the Pramukh and Up Pramukh simari Block, District-Buxar because the aforesaid post is still vacant after 27.02.2024.

15. Mr Rajesh Kumar Mishra, learned counsel appearing on behalf of the Respondent No. 16 submits that on 01.01.2024 18 members of the Simri Panchayat Samiti out of 29



members made the proposal before the Block Pramukh, Simri as well as Block Development Officer, Simri for fixing the date of Special Meeting for No Confidence Motion. The Respondent No. 6 also communicated such information to Pramukh, Simri on 01.01.2024 and requested to fix the date for further action, when no action was taken by the Pramukh (petitioner) then the Respondent No. 6 wrote a letter to the petitioner vide letter No. 18 dated 04.01.2024 and requested to fix the date of meeting of No Confidence Motion till 07.01.2024. When no action was taken by the Pramukh (petitioner) then the Respondent No. 6 vide his letter dated 09.01.2024 fixed the date for discussion of no confidence motion on 18.01.2024 and accordingly it was communicated to all the members including the Pramukh and Up Pramukh. In the mean time, the petitioner has filed the present writ petition for quashing the requisitions dated 01.01.2024, 08.01.2024 and 09.01.2024 and further prayed for staying the operation of letter dated 09.01.2024 by which the date for no confidence motion was fixed on 18.01.2024. Due to non compliance of peremptory order dated 11.01.2024, the present writ petition stood dismissed for default on 18.01.2024.

16. Learned Counsel for the Respondent No. 16 submits that more than 1/3rd members of the Panchayat Samiti



on 09.02.2024 again made an application before the Respondent No. 6 to fix the date for No Confidence Motion since the writ petition stood dismissed for default. The Responded No. 6 vide letter No. 293 dated 10.02.2024 sent a letter to Pramukh on 10.02.2024 and letter dated 15.02.2024 to Up Pramukh and requested to fix a date for discussion for proposal of No Confidence Motion. But no action was taken by the Pramukh and Up Pramukh then the Respondent No. 6 after following the due procedure of law as prescribed under the Bihar Panchayat Raj Act had sent a letter dated 16.02.2024 to all members including the petitioner and requested to fix the date for meeting of No Confidence Motion, then the Respondent No. 6 has fixed the date for Special Meeting for discussion of No Confidence Motion on 27.02.2024 and the same was passed by majority against the Pramukh and Up Pramukh. And again the present writ petition was heard on 11.03.2024 by which the Hon'ble Court has directed the District Magistrate, Buxar to call for records related to the Panchayat Samiti and fix the date within 2 days after communication of the order for the attendance of Pramukh and Up Pramukh and all the members of the Panchayat Samiti and seek their signature in his own presence. In case any of the members deliberately refuse to appear before him, then in



that case, he may take help of Superintendent of Police concerned, so that horse trading maybe avoided.

17. The Hon'ble Court further directed the District Magistrate that if he find that there is violation of the manner as prescribed under Section 44 of the Bihar Panchayat Raj Act, 2006, the same requires interference in any manner with respect to conduct of No Confidence Motion on 27.02.2024. The District Magistrate after providing opportunity of hearing to all the affected parties, may pass a speaking order in accordance with law and also file a counter affidavit before this Court on or before 27.03.2024 and further directed that the resolution of the special meeting on 27.02.2024 shall remain inoperative till the next date of hearing.

18. Learned counsel for the Respondent No. 16 submits that in compliance of the order dated 11.03.2024, the District Magistrate, Buxar fixed the date on 27.03.2024 and call for record of the Panchayat Samiti, Simri and after going through the same finds that there was no irregularity/horse trading in the meeting of the No Confidence Motion dated 27.02.2024 and the No Confidence Motion was passed in accordance with law against the Pramukh and Up Pramukh and after dismissal of the writ petition, the fresh notice for fixing the



date of No Confidence Motion was given by 1/3rd members of the Panchayat Samiti. Although, the petitioner had filed four Interlocutory Applications in this case, but the copy of the same was not served to the learned counsel for the Respondent No. 16 and even the petitioner has not pressed the above mentioned Interlocutory Applications.

19. Learned Counsel for the Respondent No. 16 has relied upon the paragraph nos. 9, 10 and 11 of the judgment reported in **2015 2 PLJR 595** (Arti Kumari v. State of Bihar and others) which are quoted hereinbelow:-

“9. The documents enclosed with the counter affidavit as well as the records clearly reflect that there was every attempt by the petitioner to avoid service of requisition. The requisitionists had earlier moved a motion against the petitioner which did not succeed in view of the statutory infraction and which led to the invalidation of not only the no confidence motion as well as the requisition which was the basis of the said no confidence motion passed on 30.7.2013. By order passed on 25.8.2014 in CWJC No. 16317 of 2013 a liberty was granted by this Court to the requisitionists to again move in accordance with law and thus the petitioner cannot feign ignorance that the Samiti members were dissatisfied with her functions and were contemplating a motion against her. Annexure-A to the counter affidavit reflects not less than three attempts by the process server with the fourth attempt coming on 18.9.2014 when the notice was affixed on the house of the petitioner in the presence of her husband and which was substantial compliance of service of notice as envisaged under Order V rule 17 of the Code of Civil Procedure. In these circumstances in view of the earlier round of litigation, it would be difficult for



this Court to accept the contention advanced by Mr. Thakur, learned counsel appearing on behalf of the petitioner that she had no inclination about the motion moved against her. On the contrary the records manifests that there was a deliberate attempt by the petitioner to avoid service.

*10. In the circumstances noted hereinabove, it is obvious that the requisitionists had no other option but to proceed in accordance with the legal right granted to them under the provisions of 'the Act' and which having been duly followed, the **no confidence motion** passed thereon requires no interference.*

11. For the reasons aforementioned, I find no reason to interfere with the no confidence motion and this writ petition is accordingly dismissed."

20. Learned counsel for the State submits that the present case was taken up for hearing on 11.01.2024 and after hearing the parties, the Hon'ble Court has been pleased to stayed the No Confidence Motion which was proposed to be convened on 18.01.2024 and the Hon'ble Court has further directed the petitioner to file a requisite for issuance of notice to Respondent Nos. 9 to 37 through both the process within a period of one week failing which this application will stand rejected without further reference to a Bench. The case was stood dismissed for default without further reference to a Bench on 18.01.2024 on non compliance of the order dated 11.01.2024. Accordingly, the interim stay granted to the petitioner stand vacated. Thereafter, 15 members of the



Panchayat Samiti out of 29 members submitted an application before the Respondent No. 6 on 09.02.2024 requesting the petitioner for fixing the date and time of Special Meeting for No Confidence Motion against the Pramukh and Up Pramukh, Simri Block. In light of the aforesaid application, the Respondent No. 6 had issued letter no. 293 dated 10.02.2024 and requested the petitioner for fixing the date and time of Special Meeting for No Confidence Motion but the petitioner could not fix the same and thereafter, the Respondent No. 6 had issued the letter no. 316 dated 15.02.2024 to Up Pramukh and requested the Up Pramukh for fixing the date and time for Special Meeting of No Confidence Motion but he also did not fix the same. Thereafter, Respondent No. 6 issued letter no. 325 dated 16.02.2024 to all the Hon'ble members of the Panchayat Samiti, Simri communicating the date of Special Meeting of No Confidence Motion which was fixed by them on 27.02.2024. Accordingly, the meeting which was held on 27.02.2024 in which 20 members out of 29 members have passed the "No Confidence Motion" against the Prakhanda Pramukh (petitioner) and Up Pramukh, Chandan Kunwar. Thereafter, vide letter no. 431 dated 27.02.2024, such information has been given to the District Panchayat Officer,



Buxar and a copy of the same has also been sent to the District Magistrate, Buxar. The petitioner has filed MJC No. 566 of 2024 for restoration of CWJC No. 617 of 2024 to its original file. On 16.02.2024, the petitioner knowingly about the proposed date of Special Meeting which was fixed on 27.02.2024 neither mentioned before the Hon'ble Court about this nor even tried to take interim relief of stay.

21. Learned counsel for the State further submits that the next date of the aforesaid case is on 26.02.2024 i.e. one day prior to the proposed date fixed for Special Meeting for No Confidence Motion which was fixed on 27.02.2024, the petitioner could not be successful in taking interim relief of say from the Hon'ble Court.

22. He further submits that in compliance of the order dated 11.03.2024 he has also filed supplementary counter affidavit and submits that in compliance of the order dated 11.03.2024, the District Magistrate vide order dated 12.03.2024 has sent a letter informing and enclosing the order dated 11.03.2024 to all the elected members of the Panchayat Samiti, Simri fixing the date and time of Special Meeting on 23.03.2024 at 3:30 pm in the office of District Magistrate, Buxar for compliance of the order dated 11.03.2024. He further submits



that the copy of the letter no. 16-0415 dated 12.03.2024 was sent to the Respondent No. 6 (Executive Officer cum Block Development Officer), Simri for service of this letter to all the members including the Pramukh and Up Pramukh and in compliance of the aforesaid, the Respondent No. 6 served letter to all the members of the Panchayat Samiti, Simri as informed vide letter no. 525 dated 13.03.2024 to the District Magistrate, Buxar. All the 29 members of the Panchayat Samiti, Simri were present on 23.03.2024 at 3:30 pm in the office of the District Magistrate, Buxar the matter regarding No Confidence Motion was discussed in the meeting and 20 members of the Panchayat Samiti, Simri submitted that they have passed No Confidence Motion without any pressure and horse trading and 9 members out of total 29 members of Panchayat Samiti, Simri opposed the No Confidence Motion passed on 27.02.2024. The videography has also been made regarding statement of all 29 members of the Panchayat Samiti in presence of the District Magistrate and on the basis of the statements made by all the total 29 members of the Panchayat Samiti, Simri including the petitioner, a proceeding of meeting has been prepared and issued vide memo no. 60-0451 dated 23.03.2024 and in compliance of the order of this Court the District Magistrate has submitted his report which



is Annexure R/4 of the supplementary counter affidavit filed on behalf of the State-Respondent.

23. Having heard learned counsel for the parties, it appears from the writ petition that the petitioner has initially challenged the requisition dated 01.01.2024 but in the subsequent development the present writ petition has been dismissed for default on 18.01.2024 and thereafter, the respondents requisitionist have given fresh application to the Executive Officer cum Block Development Officer, Simri, Buxar for initiating a proceeding of No Confidence Motion afresh against the Pramukh and Up Pramukh and the same was received by the Respondent No. 6 on the same day and after receiving the application dated 09.02.2024 from the private respondents, the Respondent No. 6 vide memo no. 293 dated 10.02.2024 had requested the petitioner for fixing the date and time of Special Meeting for No Confidence Motion but the petitioner could not receive the letter dated 09.02.2024, then letter dated 10.02.2024 has been affixed on her main door of her house on the same day i.e. on 10.02.2024 and despite knowledge of the aforesaid, the petitioner could not fix the date and time of Special Meeting till 15.02.2024. Then the Respondent No. 6 had requested the Up Pramukh as per



provision stipulated in Bihar Panchayat Raj Act for fixing the date and time for Special Meeting for discussion of No Confidence Motion. When the Pramukh (petitioner) and Up Pramukh, Simri Block have not fixed the date and time of Special Meeting for No Confidence Motion, then more than 1/3rd members (i.e. 20 Block Samiti Member) of Simri Prakhanda have given application dated 16.02.2024 to the Respondent No. 6 under Section 44 (3)(i) of the Bihar Panchayat Raj Act, 2006 for fixing the date on 27.02.2024 at 1:00 pm for Special Meeting of No Confidence Motion against the Pramukh and Up Pramukh. And it appears that after receiving the application dated 16.02.2024 given by more than 1/3rd members of Simri Block Samiti, then the Respondent No. 6 under Section 44(3)(i) of the Bihar Panchayat Raj Act, 2006 has issued the memo no. 361 dated 17.02.2024 to the Sub Divisional Officer, Dumraon for providing the Police force on 27.02.2024. The District Magistrate, Buxar by invoking the power under Section 157 of the Bihar Panchayat Raj Act has nominated Sri Syed Shahjad Ahmad, Learned Deputy Collector Land Reforms, Dumraon as Special Officer for convening the Special Meeting which was held on 27.02.2024. Thereafter, the petitioner has filed the MJC No. 566 of 2024 (Restoration



Petition) without serving the copy to the respondents and this Court vide order dated 16.02.2024 restored the present writ petition in its original file and the Special Meeting was held on 27.02.2024 in which out of 29 members only 20 members have given vote in favour of No Confidence Motion and accordingly the Pramukh and Up Pramukh, Simri have lost the majority of the House.

24. It appears from the record of the present writ petition that the petitioner has filed I.A No. 2 of 2024 on 05.03.2024 for quashing the letter dated 16.02.2024 issued by the Executive Officer cum Block Development Officer, Simri, Buxar whereby the date of Special Meeting for want of No Confidence Motion against the Pramukh and Up Pramukh, Simri has fixed on 27.02.2024. Apart from that the petitioner has also filed IA No. 3 of 2024 on 22.03.2024 but the petitioner has not pressed the aforesaid Interlocutory Applications and even the aforesaid Interlocutory Applications of the petitioner was not allowed by this Court.

25. After restoration of the writ petition, the matter was taken up on 11.03.2024 and this Court has directed the District Magistrate, Buxar to call for records related to the Panchayat Samiti and fix the date within 2 days after



communication of the order for the attendance of Pramukh and Up Pramukh and all the members of the Panchayat Samiti and seek their signature in his own presence. That in compliance of the order of this Court, the District Magistrate has convened the meeting and No Confidence Motion was discussed in the meeting and 20 members of the Panchayat Samiti, Simri submitted that they have passed the No Confidence Motion without any pressure and horse trading and the No Confidence Motion was passed on 27.02.2024 against the Pramukh (petitioner) and Up Pramukh and the District Magistrate has submitted his report dated 23.03.2024.

26. In view of the aforesaid, it appears that the Respondent No. 6 under Section 44 (3)(i) of the Bihar Panchayat Raj Act, 2006 has acted accordingly and No Confidence Motion was passed against the Pramukh (petitioner) and Up Pramukh. Therefore, there is no infirmity in the proceeding dated 27.02.2024 and the State respondents are directed to proceed further to hold the meeting for the election of the Pramukh and Up Pramukh of Simri Block, District-Buxar in accordance with law within a period of four weeks’.



27. In view of the subsequent development during the pendency of the writ petition, there is no merit in the writ petition and the same stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	24.06.2024
Uploading Date	09.09.2024
Transmission Date	NA

