

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.669 of 2024

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Vimal Kumar Singh S/O Sri Arun Kumar Singh R/O village- Sikariya, P.O-
Paharpur, P.S- Garhani, Distt- Bhojpur at present Pramukh of Garhani Block
under District- Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar Through its Addition Chief Secretary Department of Panchayat Raj Bihar at Patna.
2. The District Magistrate cum District Election officer, Bhojpur at Arah
3. The Sub Divisional officer, Arah Sadar
4. The District Panchayat Raj officer Bhojpur at Arah
5. The Block Development officer cum Executive officer, Garhani Block under district Bhojpur.
6. Sugawanti Devi Wife of Radheshyam R/O VIII and P.O- Ichari, P.S- Aaya, Dist-Bhojpur at Present Ex-member of Panchayat Samiti Block Garhani, under District-Bhojpur.
7. Smt. Prem Kumari Devi Wife of Munna Sharma R/O Vill and Padriya, Post-Garhani, P.S- Charpokhari, Dist-Bhojpur Ex-member of the Panchayat Samiti Garhani Block under District- Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhay Kumar, Advocate
For the Respondent/s	:	Mr. Aditya Nath Jha, Advocate
For respondent nos.6 & 7 :	:	Mr. Awnish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-03-2024

Heard Mr. Abhay Kumar, learned counsel appearing on
behalf of the petitioner; Mr. Aditya Nath Jha, learned counsel
for the State and Mr. Awnish Kumar, learned counsel for
respondent nos.6 and 7.



2. Learned counsel appearing on behalf of the petitioner submitted that the private respondents no.6 and 7 have resigned on 18.12.2023 and 19.12.2023 respectively and in accordance with the provision of Section 45 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the “Act”), their seats became vacant on expiry of seven clear days from the date of their resignation, unless as per the provision of Section 45 of the Act, they have chosen to withdraw such resignation within a period of seven days. The petitioner, who is the Pramukh, after having received the resignation on behalf of respondents no.6 and 7, has questioned the sustainability of the requisition made against him for holding of special meeting, as after having lost their membership, the respondents no.6 and 7 cannot participate in the meeting. However, he admits that he has not challenged the same in the writ petition but he has made a specific statement regarding this in paragraph no.16 of the writ petition. The main relief for the said reason is required to be taken into consideration for holding the requisition, made against the petitioner, to be without sustainable.

3. Considering the information given by the petitioner in the writ petition that the signature of Sugawanti Devi (respondent no.6) and Smt. Prem Kumari Devi, (respondent



no.7) to be correct, the meeting which was required to be held on 13.01.2024, was deferred by this Court vide order dated 11.01.2024 and the respondents / State and respondents no.6 and 7 were directed to file their respective counter affidavit.

4. Counter affidavit has been filed on behalf of respondents no.2 to 5 and the same is on record. Based on the pleadings made in the counter affidavit, Mr. Aditya Nath Jha, learned counsel for the State, informs that the signature of the respondents no.6 and 7 have been found to be forged by the two men committee, who submitted a report before the District Magistrate, giving information that respondents no. 6 and 7 have denied their signature.

5. At this stage, learned counsel appearing on behalf of the petitioner submitted that Smt. Prem Kumari Devi (respondent no.7) was not present at the time of holding of the inquiry and the inquiry is vitiated on this count as well. He further submitted that with respect to the genuinity of the signature, the same has to be verified by the hand writing expert or by sending the signature to the Forensic Science Laboratory. The inquiry report cannot be sustained in the eye of law.

6. *Per contra*, learned counsel appearing on behalf of the State, by referring to Annexure R/F and R/G, has submitted that



the inquiry report has been submitted on the basis of the specific inquiry held after giving opportunity to respondents no.6 and 7, including the petitioner. The respondents no.6 and 7 have denied their signature made on 18.12.2023 and 19.12.2023, as contained in Annexures 1 and 2 respectively to the writ petition and no further inquiry is required in this regard for sending the signature to be examined by the handwriting expert or by the Forensic Science Laboratory.

7. Mr. Awnish Kumar, learned counsel appearing on behalf of respondents no.6 and 7, has supported the counter affidavit filed on behalf of respondents No. 2 to 5 and adopts the argument of learned counsel appearing on behalf of the State.

8. Having heard the rival submissions made on behalf of the parties, the question on which the petitioner has challenged the special meeting of “No Confidence Meeting” called upon him on the ground that two elected members, respondents no.6 and 7, had already resigned and they had not withdrawn their resignation within a period of 7 days from the date of letter of resignation in accordance with the provision of Section 45 of the Act, and the “No Confidence Motion” called against him cannot be sustained. The challenge by the petitioner on the ground that



two elected members having resigned and their resignation deemed to have been accepted in accordance with the provision of Section 45 of the Act but the petitioner never chose to inform to the State Election Commission for holding of the election for the said purpose. The petitioner had vide letter dated 27.12.2023 (Annexure 3), informed to the District Panchayat Raj Officer, Bhojpur at Arah and subsequently vide letter dated 05.01.2024 (Annexure 11), he had also informed the State Election Commission regarding resignation of respondents no.6 and 7. However, the petitioner has not made State Election Commission as a party respondent to the writ petition.

9. The peculiar facts which have emerged are that the signatures signed by respondents no. 6 and 7 on the resignation letter, as contained in Annexure 1 and 2 have been denied by them to be their signature and inquiry report in that respect has been accepted by the District Magistrate. In the counter affidavit, specific statement has been made in paragraph no.10 that on the basis of respective denial by respondents no.6 and 7 that they have not signed the resignation letter, as contained in Annexure 1 and 2, they cannot be held to have resigned from the post of members of the Panchayat samiti. The very genuinity of the letter dated 27.12.2023, as contained in Annexure 3, and



letter dated 05.01.2024, as contained in Annexure 11 to the writ petition also call for inquiry, considering the fact that no denial has been made by the District Panchayat Raj Officer, Bhojpur at Arah, respondent no.4, on whose authorization, counter affidavit has been filed on his behalf by the Block Development Officer.-cum-Executive Officer, Garhani Block, District, Bhojpur.

10. The writ petition don't call for any consideration for the reason that the petitioner has not come with clean hands before this Court, considering the fact that respondents no. 6 and 7 have denied their signature on the resignation letter and also considering the inquiry report submitted in this regard.

11. In aforesaid admitted background, this Court directs the District Magistrate to call for the records of the writ petition, as also the records maintained by the Block Development Officer, Garhani Block and shall take appropriate legal action against all the persons, involved in illegal act, including the District Panchayat Raj Officer, Bhojpur at Arah, as well as, the Block Development Officer-cum-Executive Officer, Garhani Block, who have suppressed the vital facts from the inquiry committee and having not informed the District Magistrate, particularly with respect to letter dated 27.12.2023, which



allegedly was informed by the petitioner to the District Panchayat Raj Officer.

12. So far as letter dated 05.01.2024 is concerned, Mr. Ravi Ranjan, learned counsel, who is present in the Court is representing on behalf of the State Election Commission, informs that he will inform the State Election Commission, as to whether any letter dated 05.01.2024, as contained in Annexure 11, was communicated to him. He has informed that neither a copy of writ petition has not been served to the State Election Commission, nor the State Election Commission has been made party to the present writ petition.

13. The matter being serious, is a glaring example of the manner in which the special meetings of “No Confidence Motion” are being called just after expiry of two years period against the Pramukh and Up-Pramukh of different blocks of the State and frivolous writ petitions on frivolous ground are being filed, which attracts appropriate actions to be taken by the State authorities. The District Magistrate, upon receipt of information by the State Election Commission, is directed to seek show cause from the District Panchayat Raj Officer, the Block Development Officer-cum-Executive Officer, Block Garhani, as well as, from the petitioner, who is holding the post of Pramukh.



14. In the meantime, The Pramukh, Up-pramukh or the requisitionists, as the case may be, may fix a date for special meeting against the petitioner in accordance with the provision of Section 44(3)(1) of the Act, 2006 and hold a special meeting in accordance with the provision of Section 44 of the Act, 2006.

15. The writ petition is, accordingly, dismissed.

(Purnendu Singh, J)

Sanjay/-

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

