

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.763 of 2024

Aditi Devi Wife of Ravi Kumar Resident of Vilage-Dharmbari, Post Office-Safiyabad, Police Station-Baikunthpur, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchayat Raj Department, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The District Panchayat Raj Officer, Gopalganj.
4. The Sub Divisional Officer, Baikunthpur, District-Gopalganj.
5. The Clock Development Officer-Cum-Executive Magistrate, Baikunthpur.
6. Urmila Devi, Member Panchayat Samiti, Panchayat Sirsamanpur, Area-15. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
7. Arun Prasad, Member, Panchayat Pyarepur, Area-29. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
8. Jaibun Khatoon, Member Panchayat Samiti, Panchayat, Bakhari, Area-15. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
9. Maya Devi, Member, Panchayat Samiti, Panchayat-Katalpupur, Area-15. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
10. Naina Devi, Member, Panchayat Samiti, Panchayat Dharmbari, Area-10. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
11. Manish Kumari, Member, Panchayat Samiti, Chimanpura, Area-08. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
12. Priyanka Kumari, Member, Panchayat Samiti, Hamidpur, Area-24. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
13. Sunita Devi, Member, Panchayat Samiti, Bansghat Masuriya, Area-16. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
14. Kiran Devi, Member, Panchayat Samiti, Parsauni, Area-02. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
15. Jhalu Ram, Member, Panchayati Samiti, Gamhari, Area-25. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
16. Imam Hussain, Member, Panchayat Samiti, Bangra, Area-27. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
17. Ramjee Bhagat, Member, Panchayat Samiti, Reotith, Area-03. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
18. Rehana Khatoon, Member, Panchayat Samiti, Reothi, Area-04. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
19. Saraswati Devi, Member, Panchayati Samiti, Hakam, Area-06. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.
20. Harendra Mahto, Member, Panchayat, Samiti, Jagdishpur, Area-23. Police Station-Baikunthpur, Block-Baikunthpur, District-Gopalganj.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mirityunjay Kumar, Advocate.
Mr. Manjeet Kumar Bishen, Advocate.
For the Respondent/s : Mr. Standing Counsel 24

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT**

Date : 12-01-2024

Heard Mr. Mirityunjay Kumar, learned counsel along with Mr. Manjeet Kumar Bishen, learned counsel appearing on behalf of the petitioner and learned SC-24 for the State.

2. Learned counsel appearing on behalf of the petitioner submits that the requisition was made by the fifteen members of the Panchayat Samiti Baikunthpur Block out of twenty nine members.

3. The Block Development Officer cum Executive Officer has fixed special meeting of 'no confidence motion' on 13.01.2024.

4. Learned counsel submitted that seven days notice under Section 46(4) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as "the Act") has not been fulfilled and for non-compliance of mandatory provision, the notice is required to be quashed.

5. Learned State counsel submits that the petitioner has remedy before the District Magistrate, Gopalganj under Section 157 of the Act and no interference can be made by this



Court at this stage.

6. Having heard the rival submissions of the parties as well as the fact that the petitioner has raised preliminary question that if the notice don't fulfill the terms and conditions of the statutory provision contained in Section 46(4) of the Act, the same is fit to be set aside and quashed.

7. In this regard, a co-ordinate Bench of this Court in the case of **Smt. Kiran Sinha Vs. the State of Bihar & Ors. reported in (2009) 4 PLJR 225** has quashed the notice on the ground that no clear seven days notice has been provided as per the requirement of Section 46(4) of the Act. In the present case, the notice was issued on 05.01.2024 and meeting is to be convened on 13.01.2024. In the case of Kirna Sinha (supra), in similar circumstances, the notice was issued on 11.12.2008 and the date of convening special meeting was fixed on 18.12.2008 and considering the fact to be identical in nature, the notice dated 05.01.2024 is hereby set aside and quashed.

8. The members of the panchayat samiti may move a fresh requisition to fix a fresh date of meeting in complying with the requirement of the Act and the concerned Executive officer cum Block Development Officer must act in accordance with law.



9. The State counsel is directed to communicate this order to the District Magistrate, Gopalganj forthwith without it being pronounced.

10. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	12.01.2024
Transmission Date	N.A.

