

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1708 of 2024

1. Touqueer Alam Ansari Son of Taiyab Ansari, resident of village - Geramari, P.O. - Chhattargachh, P.S. Paharkatte, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
2. Babul Alam, Son of Md. Fidi Hussian, resident of village - Ramani Pokhar, P.O. and P.S. - Pothia, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
3. Md. Zakir Hussain, Son of Asiruddin, resident of village- Patilabhas, P.O. and P.S. Pothia, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
4. Jainab Begam @ Jainab Nisha, Wife of Md. Afaque Alam, resident of village- Dumarmuni, P.O. Raipur, P.S. Paharkatta, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
5. Terun Nisha, Wife of Md. Tahir Ansari, resident of village- Damal Bari, P.O. Raipur, P.S. - Paharkatta, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
6. Bibi Shabnam Ara @ Shabnam Ara, Wife of Arshad Kadir, resident of village- Jahangirpur, P.O. Panasi, P.S. Paharkatta, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
7. Astana Begum, Wife of Salimuddin, resident of village - Khajoorbari, P.O. Khariya Pichhla, P.S. Paharkatta, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
8. Bebi Khatun, Wife of Mansoor Alam, resident of village - Budhra, P.O. and P.S. Pothia, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
9. Nirwat Naz, Wife of Rasid Alam, resident of village - Mirdangi, P.O. and P.S. Paharkatt, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
10. Byuti Praween, Wife of Mohammad Helal, resident of village - Arrabari, P.O. Raipur, P.S. - Paharkatta, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
11. Minhara Begum @ Minhara Begam, Wife of Md. Kalam, resident of village - Udgara, P.O. Khatia Pichhla, P.S. - Paharkatta, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.



12. Sabbenur Begam @ Shabbenur Begam, Wife of Md. Fazle Haque, resident of village - Koltha, P.O. Chhattargachh, P.S. - Paharkatta, District - Kishanganj. The writ petitioner is the elected member of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The District Magistrate, Kishanganj, District - Kishanganj.
4. The District Panchayat Raj Officer, Kishanganj, District - Kishanganj.
5. The Sub-Divisional Officer, Kishanganj, District - Kishanganj.
6. The Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, District - Kishanganj.
7. The Block Panchayat Raj Officer, Pothia, District - Kishanganj.
8. Sadd Mobarak Ali, Son of Ali Hussain, presently Pramukh of Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District - Kishanganj.
9. Sri Dulaljit Singh, son of not known to the petitioners, Presently Up-Pramukh of Block Panchayat Samiti, Pothia, P.O. and P.S. - Pothia, District - Kishanganj.
10. Md. Nuruddin, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
11. Farid Alam, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
12. Asgari Praveen, Wife of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
13. Zer Mohammad, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
14. Yamuna Lal Ganesh, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
15. Md. Imteyaz Alam, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.



16. Md. Mazibul Rahman, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
17. Arjun Ram, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
18. Lakshman Tuddu, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
19. Rupali Singh, Wife of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
20. Alam Ara, Wife of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
21. Shahnaz Begum, Wife of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
22. Md. Shahnawaz, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
23. Gulam Razique, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
24. Sapan Tuddu, Son of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.
25. Anjuma Khatoon, Wife of not known to the petitioners, The elected member of Block Panchayat Samiti, Pothia through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Pothia, P.O. and P.S. Pothia, District- Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. SBK Mangalam, Advocate Mr. Awnish Kumar, Advocate
For the State	:	Mr. Jitendra Kumar Roy, SC 13 Mr. U.K. Singh, AC to SC 13



For the Resp. No. 8 : Mr. P.N. Shahi, Senior Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 13-08-2024 Heard Mr. Awnish Kumar, learned counsel for the petitioner, Mr. Pushkar Narayan Shahi, representing respondent no.8 and learned counsel for the State representing the respondent no.3, The District Magistrate, Kishanganj.

2. The present writ petition has been preferred for the grant of following reliefs:-

“(I)For issuance of an appropriate writ in the nature of CERTIORARI for quashing the requisition dated 02.01.2024 signed by 13 elected members of Block Panchayat Samiti, Pothia and addressed to the Pramukh, Respondent no.8 with a copy to the Executive Officer, Respondent no.6, whereby and where under a grievance was made by the requisitionists to the Respondent no.8 to fix the date of special meeting of Block Panchayat Samiti for consideration of their motion of No Confidence against the Pramukh and Up-Pramukh.

(II)For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent no.6 to produce on record the decision of the Respondent no.8 by which he had fixed the date of special meeting



on 13.01.2024 and on production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI on the ground that the requisition to the Pramukh was since submitted by the Panchayat Samiti Member in his favour and, therefore, the Respondent no.8 had fixed the date of special meeting on 13.01.2024 even on the date of receipt of requisition, the Respondent no.8 had played a fraud upon the Statute in order to establish himself in the Panchayat Samiti for the remained period of Panchayat Samiti for which it was constituted.

(III) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the notice dated issued under the signature of the Respondent no.7 and contained in his letter no.26 dated 03.01.2024 and 56 dated 03.01.2024, whereby and where under the Respondent no.7 was pleased to issue notice of special meeting dated 13.01.2024 to all the elected members of Block Panchayat Samiti for consideration of No Confidence Motion against the Pramukh and Up-Pramukh and they were requested to attend the special meeting on the date scheduled.

(IV) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the proceeding of special meeting of the Block



Panchayat Samiti Pothia dated 13.01.2024 in which the motion of No Confidence against the Respondent nos. 8 and 9 was placed for consideration of the Panchayat Samiti, however, it was rejected on the ground that no member of Panchayat Samiti except the Respondent no.8 and 9 had come to participate in the meeting.

(V)For a declaration that since the motion of No Confidence in the special meeting dated 13.01.2024 was not put the vote and, therefore, no decision was taken on the No Confidence Motion,the bar as contemplated under Sub-Section -3 (ii) of Section -44 of the Gram Panchayat Act would not be available in the case and therefore, aggrieved members are at liberty to bring No Confidence Motion against the Respondent nos. 8 and 9 as and when they wish to bring in view of the law laid down by the Division Bench of this Hon'ble Court in L.P.A. No.113 of 2020 decided on 18.06.2020 (Dharamsheela Devi Vs. Hemant Kumar).”

3. Learned counsel for the petitioner submits that the earlier proceeding against the Pramukh, Panchayat Samiti, Pothia on 13.01.2024 came to an end without voting as only one member was present.

4. The submission is that, subsequently, another



requisition was made on 29.02.2024 by 10 out of 30 elected members (P/6 to the supplementary affidavit), yet no decision has been taken. He submits that in light of the judgment passed by the Division Bench in **Dharamsheela Kumari vs. Hemant Kumar and Others reported in 2021 (3) PLJR 346**, as the voting did not happened, there is no bar in fresh requisition.

5. Mr. Pushkar Narayan Shahi, Learned Senior counsel for the petitioner submits that earlier special meeting took place but no one came forward to either discuss the allegations and or put the motion to vote, and in that background, it came to an end and as such, they are barred from making the fresh requisitions.

6. In **Dharamsheela Kumari** (supra), the Division Bench has clearly held that in absence of any voting, there is no bar in fresh requisition. Since, the requisition has been made on 29.02.2024 and no decision has been taken, we are in August 2024, the matter is referred to the respondent no.3, The District Magistrate, Kishanganj, to take up the matter under Section 157 of the Bihar Panchayat Raj Act, 2006 and after putting all the concerned parties to notice, the petitioner and respondent no.8 included, as also the officials and then



take a decision at an earliest.

7. Any subsequent development will be subject to the order passed by the respondent no.3, The District Magistrate, Kishanganj, the writ petition stands disposed of.

(Rajiv Roy, J)

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