

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1256 of 2024**

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1. Anu Kumari Wife of Priyaranjan Kumar, Resident of Village - Rampur Mahesh, Narayanpur, Block - Taraiya, Police Station - Taraiya, District - Saran.
2. Pramila Devi, Wife of Vinod Ray, Resident of village- Phenbhinda, Post Office - Phenbhinda, Police Station - Taraiya, District - Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Saran at Chapra.
5. The A.D.M. Saran-cum-Observer, District - Saran.
6. The District Panchayati Raj Officer, Saran at Chapra.
7. The Sub Divisional Officer, Marharwah, Saran.
8. The Election Commission of Bihar through the Election Commissioner, Bihar, Patna.
9. Krishna Kumar @ Krishna Kumar Singh, the Block Development Officer-cum-Chief Executive, Prakhand Panchayat, Samiti, Taraiya, Saran.
10. Priti Kumari, Pramukh-cum-Panchayat Samiti Member, 7 , Madhopur. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.
11. Ranjeet Kumar, B.D.C. 9, Pachbhinda. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.
12. Vishwakarma Sharma, B.D.C. 5, Dumri. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.
13. Razia Khatoon, B.D.C. 16, Pachraur. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.
14. Suneeta Kumari B.D.C. 17, Bhatgai. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.
15. Usha Devi, B.D.C. 2, Chianpur. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.
16. Punam Devi, B.D.C. 8, Chanchaliya. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.
17. Sakshi Suman, B.D.C. 12, Bhagwatpur. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.
18. Jeera Devi, B.D.C. 14, Dewdhi. Resident of Taraiya Block, Police Station - Taraiya, District - Saran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Mrigank Mauli, Senior Advocate  
Mr.S.B.K.Manglam, Advocate  
Mr.Shekhar Harshvardhan, Advocate  
Mr.Sanket, Advocate  
For Private respondents : Mr.Bindhyachal Singh, Senior Advocate  
Mr.Vipin Kumar Singh, Advocate  
Ms.SmritiSingh, Advocate  
For the SEC Mr.Ravi Ranjan, Advocate  
Mr.Girish Pandey, Advocate  
For the Respondent/s : Mr.Birju Prasad, GP 13  
Mr.Ravi Kumar, AC to GP 13  
Mr.Ajit Anand, AC to GP 13  
Mrs.Shweta Anand, AC to GP 13

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

**Date : 30-01-2024**

Heard learned counsel for the parties.

2. In continuance of order dated 22.01.2024, it is being recorded that today, the Block Development Officer-cm-Executive Officer, Taraiya (Saran) is present in the Court. He had given an oral undertaking on 29.01.2024 that he will proceed to correct his action by withdrawing the illegal noting of proceeding, which is not in accordance with the provision of Section 44(3)(i)(v)(vi) of Bihar Panchayat Raj Act, 2006 (hereinafter to be referred as the 'Act, 2006'). He admitted that the same is contrary to the observations made in **paragraph nos.58 and 59** of the judgment passed by the Division Bench of this Court in **L.P.A.No.113 of 2020 (Dharamsiula Kumari Vs. Hemant Kumar & Ors. passed)**. He also admitted that it has been dealt with in the said judgment and particularly in concluding paragraph no.118 of the judgment. This Hon'ble Court had directed that the action in



drawing the proceeding is contrary to the procedure prescribed in Section 44(3)(i)(v)(vi) of Bihar Panchayat Raj Act, 2006.

3. This Court trusting the Block Development Officer-cum-Executive Officer had adjourned the hearing so that he will withdraw the minutes drawn by him, in which he had recorded on 09.01.2024 that more than 50 % of the total elected members were not present. He also proceeded to record, vide Annexure 9 dated 09.01.2024, that the Pramukh enjoyed the majority and no voting by nine members is required in absence of 50% of total elected members.

4. Learned counsel for the petitioner submitted that total nine elected members had appeared and tendered their signature on 09.01.2024.

5. Mr. Birju Prasad, learned G.P. 13 submitted that the action has been taken by the Block Development Officer-cum-Executive Officer in compliance of order dated 29.01.2024 and he refers that a clear statement has been made in paragraph no.5 and 6 of the supplementary affidavit, which is re-produced hereinafter :

*“5. That it is stated and submitted that in the instant case, proceeding dated 09.01.2024, contained in Annexure -9 of the writ petition, which was done unaware of judgment of the Division Bench of this Hon’ble Court passed in LPA No.113 of 2020 (Dharamsila Kumari Vs. Hemant Kumar & Ors.).*



*6. That it is further stated and hereby declared and undertakes by the answering respondent before the Hon'ble Court that the aforesaid proceeding regarding the "no confidence motion" will be passed for taking necessary action in accordance with Bihar Panchayat Raj Act, 2006 and rules framed thereunder, as well as in the light of judgment of the Division Bench of this Hon'ble Court passed in LPA No.113 of 2020 (Dharamshila Kumari Vs. Hemant Kumar & Ors.)."*

6. This Court is not concerned what action the B.D.O.-cum-Executive Officer has taken but I find that the B.D.O. has wilfully disobeyed the order passed by this Court and he has failed to abide by his undertaking given before this Court even he has admitted he is now conversant with order passed in paragraph Nos.58 and 59 of the judgment passed in **LPA No.113 of 2020 (Dharamshila Kumari Vs. Hemant Kumar & Ors.)** and will correct himself. For ready reference, paragraph nos. 58 and 59 of the judgment are re-produced hereinafter : -

*58. The expression used "majority" in Section 44 has to be read in the context of 'total number of members of the Panchayat Samiti' for only such of those members who are elected members have a right, not only to move a motion of no confidence but also to participate, i.e. to discuss and vote thereupon. The expression 'requisition for such a special meeting' in the second part of sub-section (3) of Section 44 has to be read in the context of moving a resolution of no confidence as envisaged therein and not a special meeting envisaged under Section 46 (3). On reading the words in conjunction with one another, it can be said that the majority required is the majority of 'total number of elected members of Samiti "at" a meeting specially convened for the purpose.' Explaining through an*



*illustration, if five members present in the meeting out of an elected body of twenty-two members, the majority required is three, not twelve. Meaning thereby, that it is not a majority qua the total number of elected members in the Samiti, but a majority qua the total number of members of the elected member of the Samiti present in the meeting convened for the purpose. In other words, the majority required to pass a resolution is a simple majority from amongst those present and voting. Similar is the position for electing the Pramukh and the Up-Pramukh [Section 40]. This interpretation is also supported by the last phrase used as ingredient (6), which specifies that 'No quorum is required for such a special meeting'. If the ingredient (7) is interpreted as "**majority of the total body of elected members**", that ingredient is rendered nugatory and otiose.*

*59. It also needs to be noted that as voting cannot be adjourned in such a meeting, the majority of the total body's prescription and the non-requirement of quorum, on the other hand, is a clear and apparent conflict. Therefore, to read these two provisions harmoniously, it becomes essential to read the phrase 'majority of total elected members present in the meeting'. Hence, it is clarified that there is no requirement of 'majority of total elected members' to form a 'Quorum.'*

7. I find that the B.D.O.-cum-Executive Officer carried by his personal whims and interest defeated the democratic process and the trust of the voters and admittedly has tried to mislead in Paragraph no.6 by making statement that the "proceeding is being withdrawn by the answering respondent and no confidence motion will be passed in fresh manner for taking necessary action in accordance with Bihar Panchayat Raj Act, 2006 and the rules



framed thereunder”. It can be said that he has become cynical and so carried by his whims to help anyone, who has influenced him.

8. At this stage, Mr. Birju Prasad, learned G.P.13, appearing on behalf of the State submits that the statement made in paragraph no.6 have not been made cautiously. The B.D.O.-cum-Executive Officer has apologized in the open Court and seeks to delete paragraph no.6.

9. Mr. Birju Prasad, learned GP 13 has submitted that there may be some misleading statement in paragraph no.6, but the same being not intentional. The B.D.O. be permitted to delete paragraph no.6 forthwith.

10. Permission is accorded.

11. The B.D.O.-cum-Executive Officer submitted that he will also withdraw Memo No.27 dated 09.01.2024 issued by him allegedly following the guidelines of the Year, 2008 issued by the State Election Commission.

12. Mr. Ravi Ranjan, learned counsel appearing on behalf of the State Election Commission at this stage clarifies that several guidelines have been issued by the Election commission modifying the earlier guidelines and after passing of the order by the Division Bench of this Court in the case of **Dharamsila**



**Kumari** (supra), the said law is prevalent and the manner prescribed therein has to be followed in its letter and spirit.

13. Mr. Bindhyachal Singh, learned Senior Counsel also admitted that no confidence voting has to be done in the manner prescribed under the provision of the Act as well as the final direction as contained in paragraph no.118 of **Dharamsila Kumari** case (supra). He further submitted that the charges contained in the requisition are not clear and in absence of the statutory requirement of Section 44(3)(v) of the Bihar Panchayat Raj Act, 2006, the same can not be sustained. He submits that in such situation the Pramukh/Up-Pramukh or elected members of the Panchayat Samiti as the case may be has to convene special meeting on the basis of fresh requisition.

14. In reply, learned counsel for the petitioner submitted that so far as the contention of the respondents is concerned, it is not open to them to take stand because by way of Annexure-1, which was issued on 01.01.2024, they themselves had submitted the requisition of no confidence before the Pramukh (respondent no.10), who herself on the same day, without challenging the requisition, had fixed the date of meeting on 09.01.2024. Now challenging the requisition that no clear charge has been alleged will amount to a waiver on the part of the respondents. In this



regard, learned counsel has relied on a decision of this Hon'ble Court in the case of **Smt. Shamshad Khatun Vs. The State of Bihar & Ors.**, reported in **2010 (1) PLJR 929** in which once having lost and then had challenged on the ground that there was no clear seven day's notice, the Division Bench has held that it amounts to a waiver on the part of the Pramukh. Now herein in the present case, the requisitionionists and Pramukh are challenging the requisition itself, which they themselves had given alleging charges against the Pramukh, who had fixed for holding special meeting on 09.01.2024 will amount to a waiver on their part, which they have not challenged ever before fixing the date. He concludes to submit that the voting has to take place on the basis of a requisition that was given by the respondent nos. 11 to 18, which was considered by the respondent no.10, who is the Pramukh, and against whom the requisition has been made. The proceeding has to be revived and the nine members, who had already participated in the meeting on 09.01.2024, voting is required to take place amongst the nine members by the Presiding Officer in accordance with law laid down in **Dharamsila Kumari** case (supra)

15. Heard the parties.



16. The issue, which is to be decided by this Court, is as to whether after the B.D.O.-cum-Executive Officer in the circumstances as stated in above paragraph has decided to withdraw the proceeding in the light of his unawareness of the judgment of the Division Bench of this Hon'ble Court passed in **LPA No.113 of 2023 (Dharamsila Kumari)** whether the consequential communication made by him as contained in memo no.27 dated 09.01.2024 (Annexure- '9') can be held to be legal and the voting is required to be held in the light of the order passed by this Court in **Dharamsila Kumari** (supra) and in view of judgment passed in **Smt. Shamshad Khatun Vs. The State of Bihar & Ors.** reported in **(2010) 1 PLJR 929** amongst the nine members, who were present in the meeting dated 09.01.2024, as admittedly the respondents consciously who had not participated, are restrained to question requisition.

17. In the background of the fact that the requisitionists, who are represented by Mr. Bindhyachal Singh along with Mr. Vipin Kumar Singh, learned Advocate- on- Record admits that the allegation made in the requisition are not clear and as such the requisition is not in accordance with the provisions of Section 44 (3)(iv) of Bihar Panchayat Raj Act, 2006 and called for a fresh meeting of no confidence motion and contrary to the same, the



contention of the petitioner is that own action of the Pramukh, who had fixed the date of meeting on 01.01.2024 to hold meeting on 09.01.2024 and having waived to participate in the meeting can not take somersault to challenge the requisition on which basis a date was fixed for no confidence motion.

18. It is admitted fact that the requisition dated 01.01.2024 was acted upon by the respondent no.10 and, thereafter, she along with respondent nos. 11 to 18 chose not to participate in the meeting. Nine elected members also participated on the date fixed for the meeting and a proceeding was drawn by the B.D.O.-cum-Executive Officer the same day finally holding that in absence of majority against no confidence motion held against respondent no.10 and has not been passed by the majority of the total elected members, however, the B.D.O.-cum-Executive Officer has withdrawn the proceeding leading to his conclusion that in absence of majority the elected members to have voted against the respondent no.10 has lost its force. The respondent nos.10 to 18 having not opted to participate in the meeting and the admitted position as of today in absence of the conclusion drawn by the B.D.O.-cum-Executive Officer having lost its relevance and the same has been nullified by him . The requisition, which was made on 01.01.2024 once having been waived by the



requisitionists (respondent nos.11 to 18) and the respondent no.10 (Pramukh) having not participated in the meeting can only be considered to have admittedly waived their right to participate in the special meeting of “no confidence” held on 09.01.2024.

19. Considering the discussion made in paragraph no.22 of **Smt. Shamshad Khatun** (supra), the Hon’ble Division Bench has discussed in detail the principle of waiver. It has been held once a party has waived his right, they can not turn around and take a somersault to challenge the same by making statement that the charges are not clear, which has been made cautiously by the respondent nos. 11 to 18, who are requisitionists. The said view has been reiterated by the Apex Court in **Padmini Singha Vs. State of Assam & Ors.** reported in **(2018) 10 SCC 561**.

20. This Court has also clarified in paragraph nos. 58 to 59 in the case of Dharamsila Kumari case (supra) that a voting to be conducted amongst the elected members, who had participated in the special meeting of no confidence motion. As a result of withdrawal of the proceeding and the consequential order having lost its force, the special meeting of no confidence and respondent nos. 10 to 18 having waived their right, the special meeting of no confidence is now required to be held in the manner prescribed in paragraph nos. 58 and 59 of Dharamsila Kumari case (supra)



amongst nine elected members, who were present in the meeting dated 09.01.2024.

21. The Apex Court in the case of **Kavita Vs. State of U.P.** reported in **(2018) 10 SCC 569**, has *inter alia* held that the proceedings before the Collector is more in the nature of a summary proceeding, and he does not have the trappings of a court exercising jurisdiction on the basis of evidence adduced at a trial of a judicial proceeding.

22. The object and the reasons of Part IX are to lend status and dignity to Panchayati Raj Institutions and to impart certainty, continuity and strength to them. The Apex Court in the case of **Bhanumti etc. Vrs. State of Uttar Pradesh through its Principal Secretary and Others** , has in sum held that a vote of no-confidence against elected representative is direct check flowing from accountability. Paragraph nos.44, 45, 46, 47, 48, 49,53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 69, 70, 71, 72, 73 and 75, of the judgment are reproduced hereinafter :

*44. The Panchayati Raj institutions structured under the said amendment are meant to initiate changes so that the rural feudal oligarchy lose their ascendancy in village affairs and the voiceless masses, who have been rather amorphous, may realise their growing strength. Unfortunately, effect of these changes by way of constitutional amendment has not been fully realised in the semi-feudal set-up of Indian politics in which still voice of reason is drowned in an uneven conflict with the mythology of individual infallibility and omniscience.*



*Despite high ideals of constitutional philosophy, rationality in our polity is still subordinated to political exhibitionism, intellectual timidity and petty manipulation. The Seventy-third Amendment of the Constitution is addressed to remedy these evils.*

*45. The changes introduced by the Seventy-third Amendment of the Constitution have given Panchayati Raj institutions a constitutional status as a result of which it has become permanent in the Indian political system as a third Government.*

*46. On a careful reading of this amendment, it appears that under Article 243-B of the Constitution, it has been mandated that there shall be panchayat at the village, intermediate and district levels in accordance with the provisions of Part IX of the Constitution.*

*47. Article 243-C provides for composition of panchayat which contemplated the post of Chairperson.*

*48. Article 243-D provides for reservation of seats and Article 243-E provides for duration of panchayat. Article 243-F enumerates the grounds of disqualification of membership of the panchayat and Article 243-G prescribes the powers, authority and responsibilities of panchayat. There are several other provisions relating to powers of the panchayat to impose taxes and for constitution of Finance Commission in order to review financial position of the panchayat. The accounts of the panchayat are also to be audited as per constitutional mandate under Article 243-J. There are detailed provisions for elections of panchayat under Article 243-K. Article 243-O imposes the bar to interference by courts in electoral matters of the panchayat.*

*49. In this connection particular reference may be made to the provision of Article 243-G of the Constitution which is set out below:*

*“243-G. Powers, authority and responsibilities of panchayat.—Subject to the provisions of the Constitution, the legislature of a State may, by law, endow the panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon panchayats at the appropriate level, subject*



*to such conditions as may be specified therein, with respect to—*

*(a) the preparation of plans for economic development and social justice;*

*(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.”*

*53. Thus, the composition of the panchayat, its function, its election and various other aspects of its administration are now provided in great detail under the Constitution with provisions enabling the State Legislature to enact laws to implement the constitutional mandate. Thus, formation of panchayat and its functioning is now a vital part of the constitutional scheme under Part IX of the Constitution.*

*54. Obviously, such a system can only thrive on the confidence of the people, on those who comprise the system.*

*55. In the background of these provisions, learned counsel for the appellants argued that the provision of no-confidence, being not in Part IX of the Constitution is contrary to the constitutional scheme of things and would run contrary to the avowed purpose of the constitutional amendment which is meant to lend stability and dignity to Panchayati Raj institutions. It was further argued that reducing the period from “two years” to “one year” before a no-confidence motion can be brought, further unsettles the running of the panchayat. It was further urged that under the impugned amendment that such a no-confidence motion can be carried on the basis of a simple majority instead of two-thirds majority dilutes the concept of stability.*

*56. This Court is not at all persuaded to accept this argument on various grounds discussed below.*

*57. A Constitution is not to give all details of the provisions contemplated under the scheme of amendment. In the said amendment, under various articles, like Articles 243-A, 243-C(1), (5), 243-D(4), 243-D(6), 243-F(1), (6), 243-G, 243-H, 243-I(2), 243-J, 243-K(2), (4) of the Constitution, the legislature of the State has been empowered to make law to implement the constitutional provisions.*



58. Particularly Article 243-C(5), which provides for election of Chairperson, specially provides:

**“243-C. Composition of panchayats.—\*\*\***

(5) The Chairperson of—

(a) a panchayat at the village level shall be elected in such manner as the legislature of a State may, by law, provide, and

(b) a panchayat at the intermediate level or district level, shall be elected by, and from amongst, the elected members thereof.”

59. Therefore, the argument that the provision of no-confidence motion against the Chairman, being not in the Constitution, cannot be provided in the statute, is wholly unacceptable when the Constitution specifically enables the State Legislature to provide the details of election of the Chairperson.

60. It may be mentioned that the statutory provision of no-confidence motion against the Chairperson is a pre-constitutional provision and was there in Section 15 of the 1961 Act.

61. In this context, Article 243-N of the Constitution in Part IX is relevant and set out below:

“243-N. Continuance of existing laws and panchayats.—Notwithstanding anything in this Part, any provision of any law relating to panchayats in force in a State immediately before the commencement of the Constitution (Seventy-second Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in



*the case of a State having a Legislative Council, by each House of the legislature of that State.”*

62. *It is clear that the provision for no-confidence motion against the Chairperson was never repealed by any competent legislature as being inconsistent with any of the provisions of Part IX. On the other hand by subsequent statutory provisions the said provision of no-confidence has been confirmed with some ancillary changes but the essence of the no-confidence provision was continued. This Court is clearly of the opinion that the provision of no-confidence is not inconsistent with Part IX of the Constitution.*

63. *The provision of Article 243-N of the Constitution makes it clear that if the panchayat laws in force in a State prior to constitutional amendment, contain provisions which are inconsistent with Part IX, two consequences will follow:*

*(1) Those provisions will continue until amended or repealed by competent legislature or authority, and*

*(2) Those provisions will continue until one year from commencement of the Constitution amendment, if not repealed earlier.*

64. *Immediately after the Constitution amendment by way of Part IX, came the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994. This was enacted on 22-4-1994 to give effect to the provisions of Part IX of the Constitution. But the pre-existing provision of no-confidence was not repealed. Rather it was confirmed with minor changes in subsequent Amendment Acts of 1998 being U.P. Act 20 of 1998 and which was further amended in the impugned Amendment Act of 2007 being U.P. Act 44 of 2007.*

69. *A Constitution which professes to be democratic and republican in character and which brings about a revolutionary change by 73<sup>rd</sup> Constitutional amendment by making detailed provision for democratic decentralization and self Government on the principle of grass root democracy cannot be interpreted to exclude the provision of no-confidence*



*motion in the respect of the office of the Chairperson of the Panchayat just because of its silence on that aspect.*

*70. As noted above, the provision of no-confidence was a pre-Seventy-third Amendment statutory provision and that was continued even after the Seventy-third Amendment in keeping with mandate of Article 243-N. This continuance of the no-confidence provision, as noted above was not challenged by the appellants. This aspect has been noted by the High Court in the impugned judgment. The High Court noted:*

*The original Act of 1961 provides a block period of 12 months for initiation of no-confidence motion in reference to kshettra samiti/panchayat, which was amended in the year 1965 by U.P. Act 16 of 1965 and the block period was enhanced to 'two years' from '12 months'. Again in the year 1990 the block period was reduced as the words 'two years' were substituted by words 'one year' by U.P. Act 20 of 1990. In the year 1998 U.P. Act 20 of 1998 again amended Section 15 and the block period was again enhanced to 'two years'. In the year 2007 again by U.P. Act 44 of 2007 the term 'two years' was substituted by 'one year' by virtue of which the block period of 'two years' was reduced to 'one year'.*

*71. The amended provision for the required majority for no-confidence motion also has been noted in the impugned judgment of the High Court:*

*“The majority as provided in Section 15(11) of the original Act of 1961 for passing of no-confidence motion was 'more than half of the total number of members of Kshettra Samiti'.*

*In the year 1994 by U.P. Act 9 of 1994 the term 'member' in Section 15(11) was substituted by 'elected members' hence in 1994 also, the motion was to be carried through with the support of more than half of the total number of elected members of kshettra panchayat.*



*In the year 1998 the required majority was enhanced to 'two-third' from more than half as the words 'more than half' in Section 15(11) were substituted by the words 'not less than two-third' by U.P. Act 20 of 1998.*

*Lastly, in the year 2007 again the provision relating to the majority for moving no-confidence motion was amended by U.P. Act 44 of 2007 and the words 'not less than two-third' were substituted by the words 'more than half' in Section 15(11)."*

*72. The argument that as a result of the impugned amendment stability and dignity of the Panchayati Raj institutions has been undermined, is also not well founded. As a result of no-confidence motion the Chairperson of a panchayat loses his position as a Chairperson but he remains a member, and the continuance of panchayat as an institution is not affected in the least.*

*73. Going by the aforesaid tests, as we must, this Court does not find any lack of legislative competence on the part of the State Legislature in enacting the impugned Amendment Act.*

*75. It has already been pointed out that the object and the reasons of Part IX are to lend status and dignity to Panchayati Raj institutions and to impart certainty, continuity and strength to them."*

23. It is made clear that the submission made by Mr. Bindhyachal Singh, learned senior counsel that the charges contained in requisition are not clear in terms of the provision of Section 44 (3)(iv) of Bihar Panchayat Raj Act, 2006 can not be accepted in view of the discussion made hereinabove and also considering the fact that the requisitionist themselves can not deny



the charges, which they had made against the respondent no.10. Taking into consideration the developmental work, which has to be taken by the Panchayat Samities, as well as, the implementation of the beneficiaries scheme and further to stop the litigation to maintain democratic framework of the Panchayat Samity on the direction of Up -Pramukh, who had participated in the meeting dated 09.01.2024.

24. It is settled principle of law that the High Court in exercise of its power of judicial review enshrined under Article 226 may look into the material on record to determine any illegality in the decision making process coupled with irrationality and perversity. In the decision reported in ***Jayrajbhai Jayantibhai Patel v. Anilbhai Jayantibhai Patel and others***, JT 2006 (12) SC 34 : 2006 (9) SCALE 147 : 2006 AIR SCW 4670, the Supreme Court while dealing with an Election matter, has held as under in paragraph 18:

“18. Having regard to it all, it is manifest that the power of judicial review may not be exercised unless the administrative decision is illogical or suffers from procedural impropriety or it shocks the conscience of the Court in the sense that it is in defiance of logic or moral standards but no standardised formula, universally applicable to all cases, can be evolved. *Each case has to be considered on its own facts, depending upon the authority that exercised the power, the source, the nature or scope of power and the indelible effects it generates in the operation of law or affects the individual or society.* Though



judicial restraint, albeit self-recognised, is the order of the day, yet an administrative decision or action which is based on wholly irrelevant considerations or material; *or excludes from consideration the relevant material; or it is so absurd that no reasonable person could have arrived at it on the given material, may be struck down. In other words, when a Court is satisfied that there is an abuse or misuse of power, and its jurisdiction is invoked, it is incumbent on the Court to intervene.* It is nevertheless, trite that the scope of judicial review is limited to the deficiency in the decision-making process and not the decision.”

25. The Apex Court in the case of The Apex Court in the case of **Sarvepalli Ramaiah v. District Collector, Chittoor, (2019) 4 SCC 500** has held as follows:-

*“40. Administrative decisions are subject to judicial review under Article 226 of the Constitution, only on grounds of perversity, patent illegality, irrationality, want of power to take the decision and procedural irregularity. Except on these grounds administrative decisions are not interfered with, in exercise of the extraordinary power of judicial review.*

*43. Judicial review under Article 226 is directed, not against the decision, but the decision-making process. Of course, a patent illegality and/or error apparent on the face of the decision, which goes to the root of the decision, may vitiate the decision-making process...”*

26. To sum up the legal position, it can be stated that if the monstrosity of the situation or other exceptional circumstances cry for timely jurisdictional interdict or mandate, the Court should not hesitate to exercise its extraordinary power under Article 226 of the Constitution.



An administrative action can be struck down, if the Court is satisfied that there is abuse or misuse of power or that such action of the authority was so absurd that no reasonable person could have arrived at on the given material.

27. Considering the fact that there is no requirement now at this stage after the B.D.O. has admitted his action to be incorrect in drawing the proceeding, which can only be drawn that which was influenced by some of the elected members and it can not be denied that he had not tried to help Pramukh (respondent no.10). The B.D.O. once having admitted, this Court will not enter into as to whether his action was malicious than to give a chance to correct himself and not to indulge in such malpractice in future and must be fair with the citizen of the country.

28. The B.D.O. is directed to give notice to all the nine elected members, who had participated on 09.01.2024 for holding of meeting.

29. Learned counsel for the petitioner is hereby directed to inform the petitioners, who are two in numbers, to inform all elected other members (total nine in number), who were present on 09.01.2024, for conveying the meeting of no confidence on 03.02.2024.

30. With the above observation/direction, the present writ petition stands allowed.



31. There shall be no order as to costs.

32. Since the order has been passed in the open Court, learned counsel for the State is directed to communicate this order to all the state respondents for the needful without waiting for the order to be pronounced.

**(Purnendu Singh, J)**

Chn/-.

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|-------------------|-----------|
| AFR/NAFR          | NAFR      |
| CAV DATE          | NA        |
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