

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1412 of 2024

Vidya Bharati Wife of Arvind Kumar Singh Resident of Village and P.O.-
Kesath, P.S.- Kesath, District- Buxar, presently Adhyaksh, Zila Parishad,
Buxar, District- Buxar.

... .. Petitioner/s

Versus

1. The State 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, Buxar, District- Buxar
4. The Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad Buxar, District- Buxar
5. Smt. Nilam Devi Wife of Sri Sunil Singh presently Up-Adhyaksh, Buxar Zila Parishad, P.O. and P.S. and District- Buxar.
6. Saroj Devi Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
7. Baby Devi Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
8. Aarti Devi Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
9. Sahana Khatoon Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
10. Mamta Kumari Wife of not known to the Petitioner. The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
11. Gayatri Devi Wife of not known to the Petitioner. The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
12. Sunaina Devi Wife of not known to the Petitioner. The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
13. Kedar Singh Son of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
14. Rajiv Kumar Son of not known to the Petitioner The Elected Member of Zila



- Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District-Buxar.
15. Umarjan Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District-Buxar.
 16. Dharmendra Kumar Thakur Son of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
 17. Ashok Rai Son of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District-Buxar.
 18. Arvind Pratap Shahi Son of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District- Buxar.
 19. Pooja Devi Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District-Buxar.
 20. Kusum Devi Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District-Buxar.
 21. Kamalwas Kuer Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District-Buxar.
 22. Rina Kumari Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District-Buxar.
 23. Mauli Devi Wife of not known to the Petitioner The Elected Member of Zila Parishad, Buxar, through the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, P.O. and P.S. and District-Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate
Mr. Ramanuj Tiwary, Advocate
Mr. Awnish Kumar, Advocate
For the Respondent/s : Mr. Maruth Nath Roy, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 23-01-2024

Heard Mr. S.B.K. Mangalam, learned counsel



appearing on behalf of the petitioner and Mr. Maruth Nath Roy, learned AC to learned SC-4 for the respondent/s.

2. Petitioner has prayed for following relief(s) in paragraph no. 1 of the writ petition, which *inter alia* is reproduced hereinafter:

*“(I) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the requisition dated 05.01.2024 submitted by 13 elected members of Zila Parishad, Buxar and addressed to the petitioner; whereby and where under they had made a grievance from the writ petitioner either to resign from the post or to convene the special meeting of Zila Parishad for consideration of No Confidence Motion against her.*

*(II) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the notice dated 14.01.2024 issued by the Respondent no.4 and contained in his letter no.399 dated 14.01.2024, whereby and where under the Respondent no. 4 has been pleased to request the petitioner to attend the special meeting of Zila Parishad convened on 25.01.2024 for consideration of No Confidence Motion against the petitioner.*

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petition would be found entitled under the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is an honest man and from bare perusal of the allegation made in the requisition for holding a special meeting for ‘no confidence motion’ it cannot be clearly stated that petitioner has misappropriated the fund or in absence of any specific allegation that he has not been holding meeting of the Zila Parishad within the specified times from time to time as prescribed under the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the ‘Act’). In these background, learned counsel submitted that the petitioner found



the allegation to be without any substance and the requisition being without fulfilling the requirement of Section 70 (4) of the Act and there is no requirement to call for any 'no confidence motion'.

4. Petitioner in these background has questioned the action of the Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Buxar who has communicated for holding special meeting of 'No Confidence Motion' on 25.01.2024 to be not in accordance with law.

5. *Per contra*, learned counsel appearing on behalf of the State submitted that the requisitionists may file a fresh requisition if they find any allegation against the petitioner or the petitioner has not held any meeting from time to time of the Zila Parishad. In want of any allegation, the requisition itself has not legal sanctity.

6. Considering the aforesaid submission made on behalf of the parties, as well as, the admitted fact that the notice of requisition for special meeting as contained in 'Annexure-P-1' jointly filed by thirteen requisitionists don't fulfill the requirement of the Act. If any member of the Zila Parishad is aggrieved by the non-functioning of the petitioner or the petitioner is engaged in misappropriation in any manner in that case, they may file their requisition along with the clear allegation made against the petitioner before him for fixing the



date of special meeting of 'No Confidence Motion' which has been announced to be held on 25.01.2024. Considering that the meeting of 'No Confidence Motion' is fixed on 25.01.2024, the requisitionists may file requisition by tomorrow (i.e., 24.01.2024) at 10.30 a.m before the petitioner, as well as, before the District Magistrate on or before 1:00 p.m.

7. If the petitioner receives personal notice of requisitionists by any members of Zila parishad, he may proceed to fix a date of meeting. In alternative, if members choose to make their requisition before the District Magistrate against the petitioner, in that case, the District Magistrate must direct the petitioner to fix a date of meeting in exercise of his power under Section 157 of the Act.

8. In any other situation, the requisitionists or the persons aggrieved by the functioning of the Zila Parishad may approach the Lok Prahari, who will enquire with respect to the functioning of the petitioner, as Chairman of the Zila Parishad, in that case, the Lok Parhari must submit the enquiry report before the Additional Chief Secretary of the department after holding an enquiry. The Additional Chief Secretary is directed to take final decision in accordance with the provision of Section 70(5) of the Act after providing due opportunity of hearing to the respective parties in case the allegations made against the petitioner is/are sustainable in accordance with the



Act.

9. The petitioner in alternative may avail remedy before the District Magistrate in the manner prescribed under the Act.

10. In light of above order, the meeting which is fixed to be held on 25.01.2024 shall remain suspended .

11. As the order has been passed in the open Court, learned counsel for the State must ensure to communicate this order forthwith to the District Magistrate, Buxar, as well as, to the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Buxar, without waiting for pronouncement of the order.

12. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	23.01.2024
Transmission Date	N/A

