

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1405 of 2024

Anil Kumar Son of Hari Charan Paswan, R/o- village Jagdishpur, Post-Nighwan, P.S.- Kurtha, District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Additional Chief Secretary, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Panchayati Raj, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Collector-cum-District Magistrate, District- Arwal.
5. The District Panchayat Raj Officer, Arwal.
6. The Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District- Arwal.
7. Ruby Kumari, wife of Baijnath Das @ Kranti Kumar, Member, Panchayat Samiti, Nadaur Panchayat, Area No. 10, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District-Arwal.
8. Nagendra Ram, Late Ram Prasad Ram, Member, Panchayat Samiti, Ahamdpur Harna Panchayat, Area No. 15, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District- Arwal.
9. Ganesh Yadav, Ramdeep Yadav, Member, Panchayat Samiti, Manikpur Dakshin Bhag- 02 Panchayat, Area No. 12, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District- Arwal.
10. Tasnim Praveen, Wife of Mahtab Alam, Member, Panchayat Samiti, Kodamrai Panchayat, Area No. 4, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District-Arwal.
11. Radha Devi, Wife of Vijay Kumar Vidyarthi, Member, Panchayat Samiti, Pinjrawa Panchayat, Area no. 3, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District-Arwal.
12. Shama Parween, Wife of Md. Pravej Alam, Member, Panchayat Samiti, Dhamaul Panchayat, Area No. 2, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti,

Kurtha, Block - Kurtha, District-Arwal.

- 13. Mahesh Yadav, Son of Late Shiv Balak, Member Panchayat Samiti, Gram Panchayat Manikpur, Area No. 11, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District- Arwal.
- 14. Ram Nath Paswan, Son of Lal Mohan Paswan, Member Panchayat Samiti, Ibrahimpur Panchayat, Area no. 1, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District-Arwal.
- 15. Akhilesh Yadav, Son of Late Raj Nath Yadav, Member Panchayat Samiti, Gram Panchayat Nidhwa, Area no. 14, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District- Arwal.
- 16. Sanju Devi, Wife of Abhay Kumar, Member Panchayat Samiti, Gram Panchayat Sachai, Area no. 9, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District- Arwal.
- 17. Rinki Kumari, Wife of Amresh Kumar, Member Panchayat Samiti, Gram Panchayat Kodmrai, Area no. 05, Block- Kurtha, District- Arwal, Panchayat Samiti member of the Block Panchayat Samiti, Kurtha, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Kurtha, Block - Kurtha, District- Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate
	:	Mr. Sumit Kr. Pandey, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, GA-2
	:	Mr. Akhileshwar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 30-01-2024

Heard Mr. Suraj Samdarshi, along with Mr. Sumit Kr. Pandey, learned Counsels appearing on behalf of the petitioner and Mr. Vinay Kirti Singh, learned GA-2 along with Mr. Akhileshwar Singh, learned counsel appearing on behalf of the respondent/s.

2. Learned counsel appearing on behalf of the petitioner submits that the Block Development officer -cum- Executive Officer fixed a date for special meeting on 30.01.2024 for No Confidence Motion, on the basis of requisition dated 03.01.2024 ignoring the requisition dated 02.01.2024. He further submits that the Block Development officer -cum – Executive Officer while so fixing the date for the No Confidence Motion did not address the letter to the petitioner in the capacity of Pramukh rather it was addressed by the name of the petitioner in the capacity of member Panchayat Samiti which is illegal.

3. Learned counsel appearing on behalf of the petitioner has placed reliance upon judgement of this Hon'ble Court in **CWJC No.619 of 2024 (Sony Kumari Vs. The State of Bihar and Ors.)**, wherein the writ petition was allowed in the light of order reported in **2002(3) PLJR 201 (Lalan Singh and Ors. Vs. The State of Bihar and Ors.)** and has further held that the proposal of No Confidence Motion lost its force for not having fulfilled the condition mentioned in Section 44 (3) (v) of Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act') (Annexure – P/6 to this writ petition). Learned counsel further submits that the petitioner is being compelled to undergo

the rigors of No Confidence Motion despite the requisition itself being invalid.

4. *Per Contra*, learned counsel for the respondents has opposed the contention of the petitioner with regard to non-conformity with the Rules and laws as contained in the Act. Learned counsel further submits that there has been no violation of any law while fixing for special meeting on 30.01.2024 for No Confidence Motion by the Block Development officer -cum- Executive Officer.

5. Considering the rival submissions made on behalf of the parties, the voting has to be conducted among the elected members, who were present on the date of special meeting so announced and if the petitioner loses the mandate of the majority then he can be removed from the post. In case, majority is in favour of the petitioner, then there is no requirement of any interference, taking into consideration the clarification made by the decision in case of ***L.P.A. No. 113 of 2020 (Dharamsila Kumari vs. Hemant Kumar & Ors.)*** particularly abiding by the clarification made in paragraph nos. 58 and 59 of the judgement.

6. With the aforesaid direction/observation, the present writ petition stands disposed of.

7. Since the order has been passed in the open Court, learned counsel appearing on behalf of 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.)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2024
Transmission Date	NA