

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1690 of 2024

Avadhesh Paswan Son of Suresh Paswan, resident of village- Mulrajpur
Diyara, Block and P.S. - Bakhtiyarpur, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The District Magistrate, District - Patna, Patna.
3. The Sub-Divisional Officer, Sub-Division - Barh, District - Patna.
4. The Block Development Officer-cum-Executive Officer, Block - Bakhtiyarpur, District - Patna.
5. Kanchan Ray, Up-pramukh, Panchayat Samiti, Bakhtiyarpur, through the Block Development Officer, Bakhtiyarpur, District- Patna.
6. Jaymala Kumari, member, Karnauti (north), Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
7. Manohar Ray, member, Satmaya Ramnagar, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
8. Gulfaraz Alam, member, Alipur Bihar, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
9. Nitu Kumari, member, Ghoswari, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
10. Roshni Devi, member, Ghagh, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
11. Pinki Devi, member, Hidayatpur Saidpur, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
12. Arun Mahto, member, Hardaspur, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
13. Nakul Mochi, member, Misi, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
14. Rajni Devi, member, Mogalpur, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
15. Babita Kumar, member, Domaan, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.

- 16. Santosh Kumar, member, Vidhipur, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 17. Gita Devi, member, Vidhipur Narauli, Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 18. Nibha Kumari, member Champapur (West), Panchayati Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 19. Indu Devi, member, Champapur (East), Panchayat Samiti, Bakhtiyarpur. Elected member of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Akshansh Ankit, Advocate
For the Respondent/s : Mr. Government Advocate (2)

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

Date : 30-01-2024

Heard Mr. Akshansh Ankit, learned Counsel
appearing on behalf of the petitioner and Government Advocate
No.2, learned G.A.-2 appearing on behalf of the respondent/s.

2. It is contended on behalf of the petitioner that District Magistrate, Patna was only requested to correct the manner in which the special meeting of No Confidence Motion has to be conducted and who had, without jurisdiction directed the Block Development officer-cum-Executive Officer to obtain a fresh date of meeting from the petitioner. However, the Block Development officer-cum-Executive Officer without complying with the direction and the mandate of Section 44(3)(i) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the

‘Act’) has proceeded to fix the date of special meeting, which is not in accordance with law.

3. Learned counsel appearing on behalf of the State admitted that the order passed by the District Magistrate in exercise of power conferred under Section 157 of the Act, is a reasoned order and can not be faulted for non-observance of law and rules. However, he is also of the opinion that if the allegation made by the petitioner against the Block Development officer is correct i.e. in fixing the date of special meeting on his own without obtaining a date, which was required to be communicated to him by the Petitioner, then that is against the statutory provision of Section 44(3)(i) of the Act, as well as, direction of the District Magistrate.

4. Considering the rival submission made on behalf of the parties, as well as, the admitted fact that the District Magistrate in compliance of the order dated 16.01.2024 passed by this Court in CWJC No.791 of 2024, has exercised his jurisdiction under Section 157 of the Act and after arriving at decision has passed a reasoned order, directing the Block Development officer to obtain a date from the petitioner for holding a date of special meeting of No Confidence Motion, that being the case, the action of the Block Development officer, as

contained in notice dated 23.01.2024 is contrary to the provision and manner prescribed under Section 44 (3)(i) of the Act, as well as, in complete defiance of direction the District Magistrate contained in order dated 22.01.2024 vide Memo No.368.

5. The petitioner is directed to fix a date of No Confidence Motion on or before 07.02.2024 and the meeting is required to be convened in manner clarified by the Division Bench of this Court in *L.P.A. No. 113 of 2020 (Dharamsila Kumari vs. Hemant Kumar & Ors.)* in paragraph nos. 58 and 59 of the said judgement, among the elected members present in the meeting.

6. With the aforesaid direction, 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