

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1629 of 2024

Aditi Devi Wife of Ravi Kumar, Resident of Village- Dharmbari, Post Office - Safiyabad, Police Station - Baikunthpur, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchayat Raj Department, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The District Panchayat Raj Officer, Gopalganj.
4. The Sub Divisional Officer, Baikunthpur, District - Gopalganj.
5. The Block Development Officer-cum-Executive Magistrate, Baikunthpur.
6. Urmila Devi, Wife of Lakshman Das, Member Panchayat Samiti, Panchayat Sirsamanpur, Area- 15, Resident of Village - Sirsa, Police Station - Baikunthpur, District- Gopalganj.
7. Arun Prasad, Son of Osihar Prasad, Member, Panchayat Pyarepur, Area - 29, Resident of Pyarepur, Police Station - Baikunthpur, District - Gopalganj.
8. Jaibun Khatoon, Wife of Kalamuddin Miyan Member Panchayat Samiti, Panchayat- Bakhari, Area - 28, Resident of Paharpur, Police Station - Baikunthpur, District - Gopalganj.
9. Maya Devi, Wife of Shatrudhan Das, Member, Panchayat Samiti, Panchayat- Katalpupur, Area - 22, Resident of Katalpur, Police Station - Baikunthpur, District - Gopalganj.
10. Naina Devi, Wife of Raj Kumar Mahto, Member, Panchayat Samiti, Panchayat Dharmbari, Area - 10, Resident of Safiyabad, Police Station - Baikunthpur, District - Gopalganj.
11. Manisha Kumari, Wife of Sunil Kumara, Member, Panchayat Samiti, Chimanpura, Area - 08, Resident of Chamanpura, Police Station - Baikunthpur, District - Gopalganj.
12. Priyanka Kumari, Wife of Vijay Kumar Ram, Member, Panchayat Samiti, Hamidpur, Area - 24, Resident of Sonbaliya, Police Station - Baikunthpur, District - Gopalganj.
13. Sunita Devi, Wife of Raj Kishor Prasad Yadav, Member, Panchayat Samiti, Bansghat Masuriya, Area - 16, Resident of Maharani Ugarsen, Police Station - Mahammadpur, District-
14. Kiran Devi, Wife of Ashok Das, Member, Panchayat Samiti, Parsauni, Area- 01, Resident of Parsauni, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
15. Jhalu Ram, Son of Badri Ram, Member, Panchayat Samiti, Gamhari, Area - 25, Resident of Sonbarsa, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
16. Imam Hussain, Son of Asharfi Miyan, Member, Panchayat Samiti, Bangra, Area- 27, Resident of Bangra, Police Station - Baikunthpur, Block -



Baikunthpur, District - Gopalganj.

17. Ramjee Bhagat, Son of Dwarika Bhagat, Member, Panchayat Samiti, Reotith, Area - 03, Resident of Reotith, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
18. Rehana Khatoon, Wife of Hasan Jaan, Member, Panchayat Samiti, Reothi, Area - 04, Resident of Reotith, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
19. Saraswati Devi, Wife of Munna Tiwari, Member, Panchayat Samiti, Hakam, Area - 06, Resident of Hakam, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
20. Harendra Mahto, Son of Ram Surat Mahto, Member, Panchayat Samiti, Jagdishpur, Area - 23, Resident of Jagdishpur, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
21. Neera Devi, Wife of Prabhat Trivedi, Member, Panchayat Samiti, Panchayat-Khaira Azam, Area- 2, Resident of Bankatti, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
22. Naidu Devi, Wife of Harindra Singh, Member, Panchayat Samiti, Panchayat - Hakam, Resident of Hakam, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
23. Paras Mahto, Son of Jodha Mahto, Member, Panchayat Samiti, Panchayat - Azbinagar, Area - 7, Resident of Azbinagar, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
24. Savitri Devi, Wife of Birendra Prasad Singh, Member, Panchayat Samiti, Panchayat - Chamanpura, Area - 9, Resident of Chamanpura, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
25. Munna Devi, Wife of Harendra Giri, Member, Panchayat Samiti, Panchayat - Dighwadubauli South, Area- 12, Resident of Sigasni, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
26. Lal Babu Singh, Son of Dhenuk Singh, Member Panchayat Samiti, Panchayat - Dighwadubauli South, Area - 13, Resident of Khaju Hatti Tola - Dayagir Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
27. Nidhi Devi, Wife of Arvind Singh, Member Panchayat Samiti, Panchayat - Sirsa Manpur, Area - 14, Resident of Shankarpur, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
28. Suganti Devi, Wife of Surendra Rai, Member Panchayat Samiti, Panchayat - Usri, Area - 17, Resident of Usri, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
29. Champa Devi, Wife of Kishnath Sah, Member, Panchayat Samiti, Panchayat - Bandhauli Banaura, Area - 18, Resident of Banaura, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
30. Anarma Prasad, Son of Babulal Mahto, Member, Panchayat Samiti, Panchayat - Chiutahan, Area - 19, Resident of Bhagwanpur, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
31. Munna Kumar Mahto, Son of Ram Prasad Mahto, Member, Panchayat Samiti, Panchayat- Dighwadubauli (North), Area- 20, Resident of Mathiya,



Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.

32. Vijay Kumar Ojha, Son of Jamadar Ojha, Member, Panchayat Samiti, Panchayat-Dighwadubauli (North), Area- 21, Resident of Dighwa, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.
33. Kavita Devi, Wife of Upendra Rai, Member, Panchayat Samiti, Panchayat - Faijullahpur, Area - 26, Resident of Faijullahpur, Police Station - Baikunthpur, Block - Baikunthpur, District - Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Mirityunjay Kumar, Advocate.
For the State	:	Ms. Kalpana, AC to GA-8.
For respondent no.6	:	Mr. Bimlesh Kumar Pandey, Advocate. Mr. Vikash Kumar Shukla, Advocate.
For the respondent nos.7&15:	:	Mr. Avnindra Kumar Jha, Advocate. Mr. Narendra Kumar Sinha, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 30-01-2024

Heard Mr. Mirityunjay Kumar, learned counsel appearing on behalf of the petitioner; Ms. Kalpana, learned AC to GA-8 for the State, Mr. Bimlesh Kumar Pandey, learned counsel along with Mr. Vikash Kumar Shukla, learned counsel for the respondent no.6 and Mr. Avnindra Kumar Jha, learned counsel along with Mr. Narendra Kumar Sinha, learned counsel for the respondent nos. 7 and 15.

2. The petitioner in the present writ petition is aggrieved by the special meeting notified by the Block Development Officer cum Executive Officer communicated to him to be held on 31.01.2024. The ground is that the requisition on which basis, the special meeting has been fixed, has not been submitted in person by the requisitionists. The petitioner being



not informed, he could not fix the meeting of No Confidence Motion in accordance with the provisions of Section 44(3)(i)(ii) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the “Act”). He alleges that the Block Development Officer cum Executive Officer in connivance with the interested elected members of the Panchayat Samiti on their own has fixed the date bypassing him. Learned counsel informs this Court that he had filed writ petition being C.W.J.C. No. 763 of 2024 which was disposed of on technical ground in light of the order passed by a co-ordinate Bench of this Court in the case of **Smt. Kiran Sinha Vs. The State of Bihar & Ors. reported in (2009) 4 PLJR 225** holding that no clear seven days notice has been provided as per the requirement of Section 46(4) of the Act. Petitioner in the above facts submitted that in accordance with the mandate of provision of Section 44 of the Act and the procedure prescribed therein, the elected members cannot bypass the petitioner and calling of special meeting on 31.01.2024 is in violation of mandatory provision of the Act.

3. Mr. Bimlesh Kumar Pandey, learned counsel, has tendered his appearance on behalf of respondent no.6, who is elected member of Panchayat Samiti and submitted that the requisition was sent to the petitioner on 13.01.2024, 15.01.2024,



16.01.2024 and 18.01.2024 to fix the date of special meeting but the petitioner allegedly being Pramukh chose not to receive the same and lastly the requisition was given to the Up-Pramukh on 20.01.2024 to fix the date of special meeting to discuss No Confidence Motion against the Pramukh and accordingly the Up-Pramukh fixed the date on 22.01.2024 for convening special meeting of No Confidence Motion.

4. The Block Development Officer cum Executive Officer has thereafter communicated the date of meeting to the petitioner, who is the Pramukh and also the elected members vide his letter dated 22.01.2024 (Annexure-P/3).

5. Mr. Avnindra Kumar Jha, learned counsel, has tendered his appearance on behalf of respondent nos. 7 and 15 and instead of filing counter affidavit, he produced a copy of the letter dated 22.01.2024 issued by the Block Development Officer stating therein that the process server has recorded that the petitioner has refused to receive the notice.

6. Mr. Mirityunjay Kumar, learned counsel appearing on behalf of the petitioner in reply to the counter affidavit filed on behalf of respondent no.6, as well as, oral submission made on behalf of respondent nos. 7 and 15, submitted that the petitioner did not receive the notice issued by



the Block Development Officer cum Executive Officer, which goes to show that a copy of the requisition was not made before him personally by the elected members of the Panchayat Samiti in accordance with the provision of Section 44(3)(i)(ii) of the Act and as such, he seeks interference of this Court.

7. Having considered the rival submissions made on behalf of the parties, as well as, the mandate of the Constitution that the petitioner, who is the Pramukh, cannot refrain from holding special meeting of No Confidence in terms of statutory provision of Section 44 of the Act, even accepting that the elected members have not served a copy of requisition personally to him in accordance with the provision of the Act which fact is also evident from the pleading made by the private respondents no. 6 in Para-6 that “.....for bringing no confidence against the petitioner along with Letter No. 19 dated 13.01.2024 was sent to the petitioner on 13.01.2024, 15.01.2024, 16.01.2024 and 18.01.2024 to fix a date for special meeting” and goes to show that personally none of the elected members of the Panchayat Samiti has submitted the requisition before the petitioner. A copy of the requisition which was received by anyone at 01:05 P.M. on 13.01.2024 has been handed over to this Court by Ms. Kalpana, learned AC to GA 8, which finds



signature of 18 elected members. The law with regard to calling of 'No Confidence Motion' has already been settled by a Division Bench of this Court in **Dharamsheela Kumari Vs. Hemant Kumar & Ors. (LPA No.113 of 2020)**. Paragraph Nos. 58 and 59 of the said judgment would be specific that in what manner a requisition is to be made and meeting has to be convened. Maintaining the democratic process of Panchayat Raj Institution and also taking into consideration the provision of Article 43 of the Constitution of India, the petitioner being Pramukh must not refrain from holding no confidence motion.

8. Now it is known to elected members about the requisition, this Court finds it proper that the elected members may appear on 03.02.2024 at 11:00 A.M to fix a date for conveying "No Confidence Motion" in accordance with law. The voting has to be conducted as per the law laid down in the case of **Dharamsheela Kumari** (supra) and clarification made in Para-58 and 59 of the said judgment.

9. The Block Development Officer cum Executive Officer must not come in the way in any manner either to draw the proceeding of the meeting or deliberation which jurisdiction he does not have in accordance with the provision of Section 44 of the Act.



10. The writ petition stands disposed of.

11. 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)

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

