

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1718 of 2024

1. Smt. Renu Devi @ Renu Kumari, Wife of Shiv Narayan Yadav, Resident of Balbhadrapur Navtoliya, P.O. and P.S.- Bahadurpur, District- Darbhanga, Bihar- 846001.
2. Smt. Lalita Jha @ Lalita Kumari, Wife of Alok Kumar Jha, Resident of Village- Supoul, Tola Ramnagar, P.S.- Biraul, District- Darbhanga, Bihar- 847203.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
3. The District Magistrate, Darbhanga, District-Darbhangha, Bihar.
4. The Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Darbhanga, District-Darbhangha.
5. The District Panchayat Raj Officer cum Additioanl Chief Executive Officer, Zila Parishad, Darbhanga, District-Darbhangha.
6. The State Election Commission through the State Election Commission, Bihar, Patna.
7. The Secretary, State Election Commission, Bihar, Patna.
8. Navin Kumar Dubey son of Kailash Dubey, resident of village Kalwara, PO-Ratanpur, PS-Jale, District- Darbhanga.
9. Mushrat Fatma wife of Habbibullah Hasmi, resident of village Kazibahera, P.O.-Nagardih, P.S.-Jale, District-Darbhangha.
10. Ranjana Kumari daughter of Sri Lal Bahadur Sah, resident of village-Karrauni, P.O.-Asthua, P.S.-Singhwara, District-Darbhangha.
11. Om Prakash Thakur son of Ram Jivan Thakur, resident of village Hanuman Nagar, PO-Kansi, Simri, PS- Singhwara, District-Darbhangha.
12. Dharendra Mishra son of Kedar Mishra, resident of village Bansara, P.O.-Pachadhi, P.S.-Raiya, District- Darbhanga.
13. Rinki Kumari wife of Sanjay Kumar Chaupaal, resident of village - Paanta, P.O.-Sonki, P.S.-Sadar, District- Darbhanga.
14. Dinesh Ram son of Fakira Ram, resident of village Bishanpur, P.O.-Narsara, P.S.-Bishanpur, District-Darbhangha.
15. Anju Devi wife of Bipin Sahani, resident of village-Mushtafapur, P.O.-Godhiyari, P.S.-Bishunpur, District-Darbhangha.
16. Asha Devi wife of Anjani Kumar Chaudhary, resident of Village - Piprauli, P.O.-Malhipatti, P.S.-A.P.M., District-Darbhangha.
17. Kajal Devi wife of Phoolbabu Lal Dev, resident of Village - Manoratha, P.O.-Hawasa, P.S.-Ashok Paper, District- Darbhanga.
18. Sita Devi wife of Shambhu Paswan, resident of village and P.O.-Bahadurpur,



P.S.- Bahadurpur, District-Darbhangha.

19. Sujata Kumari daughter of Bhuneshwar Lal Das, resident of village-Bajitpur, P.O.-Milki Chak, P.S.Bahadurpur, District-Darbhangha.
20. Sumitra Devi wife of Hari Paswan, resident of village Basatpur, P.O.-Ughra, P.S.-Bahadurpur, District-Darbhangha.
21. Harimohan Yadav son of Mahesh Kant Yadav, resident of village - Kopi, P.O.-Trimohani, Sushari Turki, P.S.Baheri, District-Darbhangha.
22. Mohammad Subhaan son of Md. Muslim, resident of village and PO-Baghauni, PS-Baheri, District-Darbhangha.
23. Sulekha Devi wife of Sitaram Manjhi, resident of Village - Sonmadihuli, P.O.-Morwara, P.S.-Biraul, District-Darbhangha.
24. Amarnath Sharma son of Udneshwar Sharma, resident of village and P.O.-Havi Bhoaar Benipur, P.S.-Bahera, District Darbhanga.
25. Swatantra Kumar Jha son of Arvind Kumar Jha resident of village and P.O.-Nawada, Benipur, PS-Bahera, District-Darbhangha.
26. Amit Kumar Thakur, Son of Gopal Thakur, resident of village and P.O.-Po-haddi, Benipur, P.S.-Bahera, District-Darbhangha.
27. Lalit Narayan Paswan son of Vishnudev Paswan, resident of village - Kanokhar, P.O.-Najra Mahamda, P.S.- Manigacchi, District-Darbhangha.
28. Awadhesh Kumar son of Dineshwar Yadav, resident of village - Jagdishpur Chakka, P.O.-Nehra, P.S.-Manigachhi, District-Darbhangha.
29. Hakikul son of Nathuni, resident of Village and P.O.- Baghout, P.S.-Manighacchi, District-Darbhangha.
30. Aruna Kumari wife of Vinay Kumar Jha, resident of Village and P.O.-Kathra, Tardih, P.S.-Manigachhi, District- Darbhanga.
31. Dharmendra Kumar Jha son of Madhukant Jha, resident of village and P.O.-Jaidev Patti, P.S.-Ghanshyampur, District-Darbhangha.
32. Dhiraj Kumar Jha, son of Ram Narayan Jha, resident of village Dath, P.O.-Jayantipur, P.S.-Ghanshyampur, District-Darbhangha.
33. Rajendra Prasad son of Bhola Tanti, resident of village Kheshraha, P.O.-Bhindua, P.S.-Kusheshwarsthan, District Darbhanga.
34. Farhat Haidar son of Kurtulain Haidar, resident of village - Devra, P.O.-Banghauli, P.S.-Jale, District-Darbhangha.
35. Samta Kumari daughter of Vijay Prasad, resident of village and P.O.-Radhi, P.S.-Jale, District-Darbhangha.
36. Seema Kumari wife of Sanjiv Raj, resident of village-Bhagwatipur, P.O.-Bharwara, P.S.-Singhwara, District-Darbhangha.
37. Dilip Kumar Yadav son of Matuk Lal Yadav, resident of village Phuldhua, P.O.-Banauli, P.S.-Simri, District-Darbhangha.
38. Nadara Hussain daughter of Nazmul Hussain, resident of village and P.O.-Kumhraul, P.S.-Simri, District-Darbhangha.
39. Shashi Rani wife of Nirbhay Kumar, resident o fvillage - Hanuman Nagar, P.O.-Khirma, P.S.-Kewati, District-Darbhangha.



- 40. Farhaan Khatoon wife of Md. Mushtafa, resident of village and P.O.-Chhatwan, P.S.-Kewati, District-Darbhangha.
- 41. Vibha Devi wife of Nandkishore Yadav, resident of village and P.O.-Saramohanpur, P.S.-Sadar, District-Darbhangha.
- 42. Ruhi Praveen wife of Md. Jalaluddin Sahil, resident of village Chaksaina, P.O.-Loaam, P.S.-Sadar, District-Darbhangha.
- 43. Rita Devi wife of Kamlesh Kumar Mandal, resident of village and P.O.-Nimaithi, P.S.- Baheri, District-Darbhangha.
- 44. Asha Devi wife of Rohit Sahu, resident of Village - Balha, P.O.-Naudega, P.S.-Biraul, District-Darbhangha.
- 45. Lal Kumar Singh son of Jagdish Singh, resident of village and P.O.-Kakodha, P.S.-Sakatpur, Tardih, District- Darbhanga.
- 46. Nand Kishore Jha son of Prabodh Jha, resident of village - Shankarpur, P.O.-Rashidpur, P.S.-Bahera, District- Darbhanga.
- 47. Sunita Yadav wife of Shambhu Yadav, resident of village - Kiratpur, P.O.-Harsinghpur, P.S.- Alinagar, District-Darbhangha.
- 48. Kulsum Begam, wife of Kamrul Rayan, resident of Village and P.O.-Baghras, P.S.-Kiratpur, District-Darbhangha.
- 49. Chhedi Sahu son of Ramvilas Sahu, resident of village-Palva, P.O.-Nadiyami, Gaurabauram, P.S.-Biraul, District-Darbhangha.
- 50. Ajay Kumar Yadav son of Babu Prasad Yadav, resident of village - Vishnupur Ghat, P.O.-Dakshini Kasraur, P.S.-Ghanshyampur, District-Darbhangha.
- 51. Guneshwar Thakur son of Budhan Thakur, resident of village Shahpur, P.O.-Jhajhra, P.S.-Kusheshwarsthan, District-Darbhangha.
- 52. Poonam Mani Sharma wife of Ram Shankar Sharma, resident of village-Chhapki Parhi, P.O.Lakshmisagar, P.S.-Sadar, District-Darbhangha.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Devashish Giri, Advocate Mr. Pranav Kumar, Advocate Ms. Shrishti Singh, Advocate
For the State	:	Mr. Sita Ram Yadav, GP-16
For Zila Parishad	:	Mr. Vivek Prasad, Advocate
For Election Commission:		Mr. Girish Pandey, Advocate Mr. Ravi Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 30-01-2024 Heard the parties.

2. Mr. Y.V. Giri, learned senior counsel appearing on



behalf of the petitioner submits that the petitioner had received a requisition dated 03.01.2024 contained in 'Annexure-1' to the writ petition before completion of two years of his tenure, which is not in accordance with the provision of Section 70 (4) (ii) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act'). He further submits that if any requisition is filed before him with clear charges against him then he will certainly hold special meeting in accordance with the provision of Section 70 (4) of the Act.

3. Mr. S.B.K. Mangalam, submits that the notice was received by the petitioner on 03.01.2024 and she fixed the date on 03.01.2024 for holding the special meeting of 'No Confidence Motion' on 12.01.2024 and said date is after two years. He further submits that the petitioner cannot be permitted to take the summer salt once having announced the date of special meeting and refrain from that.

4. Having considered the rival submission made on behalf of the parties, as well as, the fact that the date, the petitioner had received the requisition on 03.01.2024, two years was not completed by few days and, therefore, any action taken by the petitioner on the basis of the said requisition, which is against the mandatory provision of Section 70 (4) of the Act,



2006 is also vitiated in the eye of law to be void because it has been exercised without jurisdiction.

5. The resolution contained in 'Annexure-4' being not in accordance with the provision of Section 70 (4) of the Act is hereby set aside and quashed.

6. The aggrieved elected members may make requisition against the petitioner within two days in person/ physically and the petitioner must not refrain to accept the notice if it is made on 02.02.2024 and on the same day the petitioner is required to fix the date of special meeting of 'No Confidence Motion' in accordance with the provision of Section 70(4) of the Act.

7. The election announced for the vacant vacancy will be assumed to have lost its force. Accordingly, learned counsel appearing on behalf of the Election Commission is directed to communicate the State Election Commission.

8. The petitioner has admitted that he is ready to convene a meeting subject to the condition that clear charges are made by the requisitionists against him in accordance with the provision of Section 70 (4) of the Act and also considering the law laid down by this Court in ***L.P.A. No. 113 of 2020 (Dharamsila Kumari vs. Hemant Kumar & Ors.)*** particularly,



clarification made in paragraphs no. 58 and 59 of the said judgment to the effect that the result of ‘No Confidence Motion’ will be decided on the basis of the voting made by the elected members, who are present and voted.

9. In case petitioner fails to convene a meeting as per the requirement of Section 70(4) of the Act, then he will be debarred from contesting the election so notified by the Election Commission.

10. 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.

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

(Purnendu Singh, J)

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