

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1713 of 2024

Shruti Shree Wife of Anand Madhukar, Resident of Laljitola, near Railway Cabin, P.O. - G.P.O., P.S. - Gandhi Maidan, Patna - 800001, presently residing at village - Balwa, P.O.- Varuna, P.S. - Fathua, Dist. - Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Sub Divisional Officer, Patna City, District Patna.
5. The Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Fatua, District Patna.
6. Rajnish Kumar, Son of Late Ram Swarath Singh, R/o Chackbihari, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
7. Lala Ray, Son of Kameshwar Rai, R/o Bakarchak, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
8. Ravindra Kumar Singh, Son of Ram Kripal Singh, R/o Alawalpur, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
9. Meeta Devi, Wife of Sanjay Singh, R/o Masarahi, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
10. Suryamani Devi, Wife of Naresh Ravidas, R/o Jaithiya, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
11. Renu Devi, Wife of Jageshwar Rai, R/o Maujipur, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
12. Rekha Devi, Wife of Pappu Kumar, R/o Dumri, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
13. Amrita Devi, Wife of Hareram Paswan, R/o Kismiriya, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat

Samiti, District Patna.

- 14. Tippal Kumar, Son of Shahdev Thakur, R/o Mominpur, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
- 15. Birender Kumar, Son of Ashok Yadav, R/o Narayana, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
- 16. Manoj Sao, Son of Basudeo Sao, R/o Usfa, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
- 17. Indal Paswan, Son of Ram Mani Paswan, R/o Sahora, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
- 18. Nisha Kumari, Wife of Jitendra Kumar, R/o - Gangapur, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
- 19. Radha Devi, Wife of Chandan Kumar, R/o - Jethuli, Fathua, Patna. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
- 20. Santosh Kumar, Son of Birju Prasad, R/o- Kolhar, Fathua, Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
- 21. Ram Prasad Paswan, Son of Maran Paswan, R/o - Rasalpur, Pitambarpur, Fathua. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.
- 22. Sabuja Devi, Wife of Arvind Prasad, R/o - Bhikhua, Fathua. Elected member of Block Panchayat Samiti, Fatua, through Block Development Officer-cum-Executive Officer, Fatua, Block Panchayat Samiti, District Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mouli, Sr. Advocate
	:	Mr. Samir Kumar, Advocate
	:	Mr. Apurv Harsh, Advocate
	:	Mr. Sujit Kumar, Advocate
	:	Mr. Manu Tripurari, Advocate
For the Respondent/s	:	Mr. Standing Counsel (28)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
Date : 30-01-2024

Heard Mr. Mrigank Mouli, learned Sr. Advocate along with Mr. Samir Kumar, Mr. Apurv Harsh, Mr. Sujit Kumar and Mr. Manu Tripurari, learned counsels appearing on behalf of the petitioner and learned SC-28 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. 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, 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 fixing a date of holding of special meeting of No Confidence Motion. The action of the Block Development officer, as contained in notice dated 23.01.2024, who himself has fixed the date, is contrary to the provision and manner prescribed in 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.367.

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.) particularly abiding by the clarification made 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	01.02.2024
Transmission Date	NA