

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1800 of 2024

=====

Sarita Kumari Wife of Santosh Kumar, resident of Purnadih, P.O. - Nanaura,
P.S.- Nawada, District - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
4. The Director, Panchayati Raj Department, Government of Bihar, Patna.
5. The District Magistrate Nawada District - Nawada.
6. The Additional Collector (Panchyati Raj) Nawada District - Nawada.
7. The Block Development Officer cum Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
8. The Panchayat Samiti Nawada Sadar through its Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
9. Gaijanti Devi, wife of Not Known to Petitioner, elected Panchayat Samiti member (Paura Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
10. Sabo Devi, Wife of Not known to Petitioner, elected Panchayat Samiti member (Bhadokhra Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
11. Sunita Devi, wife of Not Known to Petitioner, elected Panchayat Samiti member (Kharat Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District- Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District- Nawada.
12. Manju Devi, Wife of Not known to Petitioner, elected Panchayat Samiti member (Bhadokhra Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District- Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District- Nawada.
13. Veena Devi, Wife of Not known to Petitioner, elected Panchayat Samiti member (Samay Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
14. Vimla Devi, Wife of Not known to Petitioner, elected Panchayat Samiti member (Samay Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District- Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
15. Babita Devi, Wife of Not known to Petitioner, elected Panchayat Samiti member (Kena Panchayat), resident of (Panchayat Samiti) Nawada Sadar,

District- Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.

16. Vijay Nonia, Son of Not known to Petitioner, elected Panchayat Samiti member (Aati Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District- Nawada.
17. Prahalad Kumar, Son of Not known to Petitioner, elected Panchayat Samiti member (Quadirganj Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District- Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District- Nawada.
18. Uma Snkar Prasad Son of Not known to Petitioner, elected Panchayat Samiti member (Loharpura Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
19. Naresh Paswan, Son of Not known to Petitioner, elected Panchayat Samiti member (Sonsihari Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District- Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
20. Pooja Kumari, wife of Not known to Petitioner, elected Panchayat Samiti member (Mahuli Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
21. Rinki Devi, wife of Not known to Petitioner, elected Panchayat Samiti member (Jamua Pahwasarai Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District- Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
22. Bineshwar Yadav, Son of Not known to Petitioner, elected Panchayat Samiti member (Bhagwanpur Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
23. Pintu Kumar, Son of Not known to Petitioner, elected Panchayat Samiti member (Auraina Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
24. Santosh Kumar, Son of Not known to Petitioner, elected Panchayat Samiti member (Bhagwanpur Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
25. Jirain Devi, Wife of Not known to Petitioner, elected Panchayat Samiti member (Bhadokhra Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District- Nawada.
26. Dilip Kumar, Son of Not known to Petitioner, elected Panchayat Samiti member (Quadirganj Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
27. Yugla Ravida Son of Not known to Petitioner, elected Panchayat Samiti

- member (Jhunathi Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
28. Nahida Khatoon, Wife of Not known to Petitioner, elected Panchayat Samiti member (Sonsihari Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.
29. Lallu Kumar, Son of Not known to Petitioner, elected Panchayat Samiti member (Bhadokhra Panchayat), resident of (Panchayat Samiti) Nawada Sadar, District - Nawada through Executive Officer (Panchayat Samiti) Nawada Sadar, District - Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar, Advocate
For the Respondent/s : Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 02-02-2024 Heard Mr. Md. Anis Akhtar, learned Counsel

 appearing on behalf of the petitioner and Mr. Manoj Kumar,

 learned AC to GP-4 appearing on behalf of the respondent/s.

2. Considering the fact that meeting of No Confidence Motion has already been fixed for tomorrow, this Court does not find it proper to interfere with the order passed by the District Magistrate concerned. Even considering the specific submission made by the petitioner, who is Pramukh that she was not given opportunity to exercise her jurisdiction in accordance with Section 44(3)(i) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the ‘Act’), for such alleged infraction of the statutory provision, the petitioner has filed CWJC No. 867 of 2024, in which *inter-alia* following orders were passed:-

“3. Considering the limited relief(s) as sought for by the petitioners, the District Magistrate concerned is directed to call for the records relating to the Panchayat Samiti of concerned Block and fix a date within two days after communication of this order for the attendance of Pramukh, Up-pramukh and all the members of the Panchayat Samiti and seek their signature in his own presence and thereafter, he may fix a date of providing opportunity of hearing to the affected parties and decide the matter considering the charges as contained in the requisition. If he finds that there is violation of manner, as prescribed under Section 44 or Section 46 of the Bihar Panchayat Raj Act, 2006 and same requires interference in any manner with respect to calling of ‘No Confidence Motion’, which has been fixed on 18.01.2024, the District Magistrate after providing opportunity of hearing may pass a speaking order strictly in accordance with law.

4. The special meeting dated 18.01.2024 shall lose its operation till final decision is taken by the District Magistrate.”

3. Considering the rival submission made on behalf of the parties, the District Magistrate concerned, after giving due opportunity of hearing to the petitioner, in exercise of power under Section 157 of the Act, passed a reasoned order after hearing all the interested parties. The District Magistrate has also taken note of the provision of the Section 44 of the Act and on the basis of the 16 out of 22 members, had recommended for convening meeting of ‘No Confidence Motion’ on 03.01.2024, by notice contained in letter no.2/Mu dated 24.01.2024. The same has been communicated to all the elected members of the Panchayat Samiti, including the petitioner.

4. At this stage, after the petitioner has already availed

remedy in accordance with law, she can not be permitted to impede the democratic process by filing writ petition, when she has admitted that she will hold a meeting of ‘No Confidence Motion’ in accordance with the provision under Section 44 of the Act but she has not given any specific date, even after being aware of the requisition and the charges made by the respondents (Panchayat Samiti members), pending before the District Magistrate or at the time an order in CWJC No. 867 of 2024 passed by this Court.

5. At this stage, learned counsel appearing on behalf of the petitioner submits that he will advise the petitioner to take necessary steps, so that democratic structure of the Panchayat Samiti should be maintained.

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

(Purnendu Singh, J.)

Ashishsingh/-

U			
---	--	--	--