

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1840 of 2024

Mira Devi Wife of Amit Kumar Paswan Resident of village- Chourahi, Post
and P.S.- Chenari, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The District Magistrate, Rohtas, District- Rohtas at Sasaram.
3. The Block Panchayat Raj Officer-cum-Chief Executive Officer (Panchayati Raj), Chenari, District- Rohtas at Sasaram.
4. The Chief Election Officer, State Election Commission, Bihar, Patna.
5. Salamat Ansari Son of Late Zahoor Ansari Resident of Village- Kenar Kala, Police Station- Chenari, District- Rohtas at Sasaram.
6. Meena Bibi Wife of Imteyaz Ali Resident of Village- Pithiyao, Police Station- Chenari, District- Rohtas.
7. Smt. Gaytri Devi Wife of Guddu Sharma Resident of Village- Nuao, Police Station- Chenari, District- Rohtas.
8. Yamuna Sah Son of Komal Sah Resident of Village- Tetri, Police Station- Chenari, District- Rohtas.
9. Vikash Kumar Son of Late Suryabansh Singh Resident of Village- Sariyan, Police Station- Chenari, District- Rohtas.
10. Smt. Lakshmina Devi Wife of Bagi Ram Resident of Karma, Police Station- Chenari, District- Rohtas.
11. Mukesh Kumar Ram Son of Ganga Ram Resident of Village- Palaundha, Police Station- Chenari, District- Rohtas.
12. Smt. Shobha Kumari Wife of Mithlesh Kumar Resident of Village- Balhipur, Police Station- Chenari, District- Rohtas.
13. Bihari Sah Son of Late Bechu Sah Resident of Village- Sadokhar, Police Station- Chenari, District- Rohtas.
14. Indravati Devi Wife of Sunil Mali Resident of Village- Telari, Police Station- Chenari, District- Rohtas
15. Priyanka Devi Wife of Shivji Singh Resident of Village- Khurmabad, Police Station- Chenari, District- Rohtas
16. Suman Devi Resident of Village- Ubhao, Police Station- Chenari, District- Rohtas
17. Firdaus Beg Son of Kuddus Beg Resident of Village- Pevandi, Police Station- Chenari, District- Rohtas

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ansul, Advocate.



For the State : Mr. Ram Pravesh Nath Tiwari, Advocate.
Mr. Sita Ram Yadav, GP-16.
Mr. Rakesh Kumar Shrivastava, AC to GP-16.
For State Election Commission: Mr. Ravi Ranjan, Advocate.
Mr. Girish Pandey, Advocate.
For Private respondents: Mr. Amit Shrivastava, Sr. Advocate.
Mr. Kuber Pathak, Advocate.
Mr. Sanjay Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 08-04-2024 Heard Mr. Ansul, learned counsel along with Mr. Ram Pravesh Nath Tiwari, learned counsel appearing on behalf of the petitioner; Mr. Sita Ram Yadav, learned GP-16 along with Mr. Rakesh Kumar Shrivastava, learned AC to GP-16 for the State, Mr. Ravi Ranjan, learned counsel along with Mr. Girish Pandey, learned counsel appearing on behalf of the State Election Commission and Mr. Amit Shrivastava, learned senior counsel along with Mr. Kuber Pathak and Mr. Sanjay Kumar, learned counsel appearing on behalf of the private respondents.

2. The petitioner has filed the writ petition for the following reliefs:

(i) For issuance of an appropriate writ / writs, order / orders for setting aside 'No Confidence Motion' passed against the petitioner in special meeting held on 16.01.2024, whereby she has been removed from the post of Pramukh of Chenari Panchayat Samiti.

(ii) For quashing the notice dated 08.01.2024 issued vide Letter No. 19 by respondent no.3 whereby the said respondent had fixed 16.01.2024 as a date for special meeting for discussion on the 'No Confidence Motion' against the petitioner and also for quashing the requisition dated 03.01.2024 calling for special meeting for 'No Confidence Motion' against the petitioner.

(iii) For further direction / directions to the respondent especially Respondent Nos. 1 to 3 restraining them from holding election of the Pramukh of Panchayat



Samiti Chenari, District – Rohtas at Sasaram.

(iv) For any other relief / reliefs to which the petitioner may be found entitled to in the facts and circumstance of the case.

3. This order is being passed in continuation of the order dated 13.03.2024 taking into consideration the facts of the case and action of the present Block Development officer-cum-Executive Officer and the Block Panchayat Raj Officer, who had exercised the jurisdiction of Executive Officer in spite of the fact that the provision of Section 60 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as “the Act, 2006”) has been amended vide Bihar Act 15, 2023. The amended act is reproduced hereinafter:

**“ Bihar Act 15, 2023
The Bihar Panchayat Raj (Amendment)
Act, 2023
AN
Act**

To amend the Bihar Panchayat Raj Act, 2006
(Bihar Act 6, 2006)

Be it enacted by the Legislature of the State of Bihar in the Seventy Fourth year of the Republic of India as follows:-

1. Short title, extent and commencement:- (1) This Act may be called the Bihar Panchayat Raj (Amendment) Act, 2023.

(2) It shall extend to the whole of the State of Bihar excepting the areas to which the provisions of the Patna Municipal Corporation Act, 1951 (Bihar Act XII of 1952) or Bihar & Orissa Municipal Act, 1922 (Bihar Act VII of 1922) or Cantonment Act, 1924 (Act II of 1924) apply.

3) It shall come into force with effect from the date of its notification in the official Gazette.

Amendment in Section 60 of the Bihar Act 6, 2006:- Sub-



section (1) of Section 60 the said Act shall be substituted by the following:-

"(1) The Government shall appoint the Block Development Officer as Executive Officer of the Panchayat Samiti,"

4. Considering the amendment brought on 17.11.2023, it appears that the Government has appointed the Block Development officer as Executive Officer of the Panchayat Samiti. The District Magistrate in compliance of the order dated 13.03.2024, has also found that after amendment, the jurisdiction of the Executive Officer vests with the Block Development officer and in this regard he has made a specific statement in paragraph nos.5 and 6 of the counter affidavit. Though, in the counter affidavit filed on behalf of the respondent no.3, no specific statement has been made that the Block Pranchayat Raj Officer, has exceeded his jurisdiction by issuing notice dated 08.01.2024 vide Letter No.19 and on which basis, he had directed to fix the date of special meeting for discussion of 'No Confidence Motion' on 16.01.2024 on the basis of requisition dated 03.01.2024.

5. This Court had given opportunity to the Block Pranchayat Raj Officer and the Block Development Officer-cum-Executive Officer, Chenari, who pursuant to the specific clarification made by the District Magistrate, as contained in



Memo No.101 dated 09.01.2024, has taken to exercise power under Section 44 of the Act, 2006 to convene a meeting which was required to be held on 03.01.2024.

6. Considering the fact that the Block Panchayat Raj Officer had proceeded to issue notice dated 08.01.2024 as contained in Letter No.19 on which date he was not having jurisdiction as per Section 60 of the Act, 2006 to exercise power of Executive Officer. Subsequent action of the present Block Development Officer cum Executive Officer who had proceeded to act on the basis of invalid letter dated 08.01.2024, is also not sustainable.

7. This Court, time and again, has found that to frustrate the mandate of the people and to interfere with the democratic process illegally, the Executive Officers in most illegal manner have acted without jurisdiction. This is one of such glaring case in which interference of this Court is required. The notice dated 08.01.2024 issued vide Letter No. 19 passed by the respondent no.3 is hereby set aside and quashed.

8. Since the notice dated 08.01.2024 issued vide Letter No. 19 has been set aside, the respective parties including the elected members, if aggrieved, may act in accordance with the law.



9. With the aforesaid direction/observation, the present writ petition stands disposed of.

(Purnendu Singh, J)

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