

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2218 of 2024

Utkarsh Srivastava @ Utkarsh Kumar Son of Shyam Babu Srivastava,
resident of Arya Samaj Mandir Road, Sikta Bazar, P.O. and P.s. Sikta, District
West Champaran at Bettiah.

... .. 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 District Magistrate West Champaran at Bettiah, District-West Champaran at Bettiah.
4. The District Panchayat Raj Officer, West Champaran at Bettiah, District-West Champaran at Bettiah.
5. The Sub Divisional Officer, Narkatiyaganj, District-West Champaran at Bettiah.
6. The Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, District-West Champaran at Bettiah.
7. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
8. The Secretary, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
9. Razia Begum wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
10. Ajit Kumar, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
11. Ramchandra Prasad, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
12. Dilip Kumar Mandal, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
13. Harindra Paswan, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
14. Nandrani Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
15. Jhuna Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta,



District-West Champaran at Bettiah.

16. Archana Pandey, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
17. Sarita Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
18. Sanjita Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
19. Arvind Kumar son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
20. Urpramila Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
21. Shamshad Akhtar, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
22. Noorjanat Khatoon, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
23. Navin Kumar Jha, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
24. Pramod Prasad Shah son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
25. Pramila Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
26. Aryan Rao, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
27. Hasina Khatoon wife of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum



Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.

28. Santosh Kumar, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.
29. Qamrul Hoda, son of not known to the petitioner, elected member of Block Panchayat Samiti, Sikta through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Sikta, P.O. and P.S.Sikta, District-West Champaran at Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam, Advocate
For the Respondent/s : Mr. Addl. Advocate General (9)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

6 30-07-2024

I.A. No. 02 of 2024

The present Interlocutory Application has been preferred for the additional reliefs.

2. There is no opposition from the other side.

3. I.A. No. 02 of 2024 is allowed.

4. Let the prayer made in the Interlocutory Application be part of the writ petition.

C.W.J.C. No. 2218 of 2024

Heard the parties.

2. The present petition has been preferred for the following reliefs:-

(i) for issuance of an appropriate writ in the nature of CERTIORARI for quashing the requisition dated 05.01.2024 signed by 12 elected members of Block Panchayat Samiti, Sikta which



was addressed to the writ petitioner; however, it was submitted in the office of Respondent no.6 on 05.01.2024, whereby and where under the grievance was made by the requisitionists from the petitioner to convene the special meeting of Block Panchayat Samiti, Sikta for consideration of their No Confidence Motion against the petitioner;

(ii) for issuance of an appropriate writ in the nature of CERTIORARI for quashing the proceeding of special meeting dated 18.01.2024 of Block Panchayat Samiti, Sikta in which the No Confidence Motion against the petitioner was moved for consideration and after the consideration, the No Confidence Motion was passed against the petitioner and the petitioner was removed from the post.

3. The facts relating to the writ petition is/are as follows:-

4. After his election as the Pramukh of the Block Panchayat Samiti, Sikta on 03.01.2022 and once he completed two years tenure, the petitioner came to know that on 05.01.2024, a requisition signed by 12 elected members of Block Panchayat Samiti has been submitted in the office of Respondent no.6 in which a grievance has been made against the petitioner with further prayer to convene the special meeting of Block Panchayat Samiti for consideration of No Confidence



Motion against the petitioner.

5. However, he was surprised to receive the requisition on 06.01.2024 along with a forwarding letter of the Respondent no.6 as contained in his office letter no.25 dated 06.01.2024, whereby and where under he was pleased to forward the requisition to the petitioner.

6. Since the petitioner believes in the democratic process, after receiving the requisition, vide letter dated 08.01.2024, he fixed the date of special meeting on 18.01.2024.

7. In view of the petitioner's decision dated 08.01.2024, the Respondent no. 6 issued notices upon the elected members of Block Panchayat Samiti, Sikta vide his office letter no.33 dated 09.01.2024 with the request to attend the special meeting on 18.01.2024.

8. After fixing of the date of the special meeting, the petitioner started visiting the residents of Panchayat Samiti Members in order to redress their grievance if any and convinced them to vote against the 'No Confidence Motion'. However, he was shocked and surprised not to find any of the member at their residence. On enquiry, the family members informed that they are away.

9. The petitioner also tried his best to contact the



requisitionists on their respective mobile numbers but the same were switched off.

10. Since the requisitionists could not be contacted, the petitioner approached the Respondent no.3 under Section 157 of the Gram Panchayat Act (henceforth for short 'the Act') and filed a detail representation on 16.01.2024 seeking his intervention in the matter with further prayer to stay the special meeting or ensure the presence of the members at their respective homes.

11. The petitioner's representation dated 16.01.2024 addressed to the Respondent no.3 was forwarded to the Sub-Divisional Officer, Narkatiaganj under letter no.121 dated 16.01.2024 of the District Panchayat Raj Office, West Champaran with a decision to do the needful in the matter. However, no action was taken by the Sub- Divisional Officer in this regard.

12. Since the petitioner could not contact any of the requisitionists from 08.01.2024 to 17.01.2024 and no action was taken by the Respondent no.3 in exercise of his power under Section 157 of the Gram Panchayat Act, save and except that a letter was sent to the Sub- Divisional Officer, Narkatiaganj for needful, the petitioner was left with no option but to avoid his



appearance in the special meeting.

13. All the requisitionists, who were absenting from their respective houses suddenly appeared in the special meeting held on 18.01.2024 and the special meeting was conducted which was attended by 14 members of Block Panchayat Samiti. Since 13 votes were cast in favour of the 'No Confidence Motion', it was declared to have been passed in the special meeting and the petitioner was removed from his post.

14. After the removal of the petitioner, the Respondent no.6 reported the vacancy to the Respondent no.3. However, the State Election Commission, Bihar (for short 'the SEC') has not fixed any date for election to the vacant post of Pramukh.

15. The contention is that the action of the requisitionists while submitting their requisition directly before the Respondent no.6 abstaining themselves from their house vitiates the entire process. As such, the same is fit to be set aside.

16. Learned Counsel for the petitioner has relied on a Division Bench decision of a **Sheikh Hassmuddin & Anr. vs. The State of Bihar & Ors.** reported in **2015 (3) PLJR 203** with reference to paragraph-10 to support his case.



17. Paragraph-10 read as follows:-

“10. It is fairly well settled that an elected member is entitled to remain in office till the completion of the term. Any mechanism that has an effect curtailing the term must be undertaken, strictly in accordance with the prescribed procedure. It is for a definite purpose that the legislature wanted the requisitionists, first to serve a copy of the notice of the want of confidence on the Pramukh, notwithstanding the fact that he will be the person to face the heat of that. The reason is that in a given case, the Pramukh may take note of the contents of the notice and initiate action, or steps to address the grievance of the requisitionists. That may lead to giving up of the further steps. Once the important step of service of notice on the Pramukh is not taken, the entire proceedings get vitiated.”

18. The counter affidavit has been filed on behalf of the Respondent nos. 3 and 6 and paragraph nos. 7 and 8 read as follows:-

“7. That it is also most humbly submitted that in compliance of direction of the officer the on



Special Duty, State Election Commission, Patna contained in Letter NO. 425/Patna dated 06.02.2024 as well as in compliance of the direction of District Magistrate cum- District Election Champaran Letter at Bettiah, Officer, West contained 363/Panchayat dated in No. 09.02.2024 the Sub- Divisional Officer, Narkatiaganj, West Champaran has convened the election for selecting the Pramukh on 23.02.2024 at 11.00 hours and for selecting the Up-pramukh of the Block Panchayat Samiti, Sikta at 01.00 hours on the same day i.e. 23.02.2024 in the Sub Division Auditorium, Narkatiaganj in which Sri Ajit Kumar has been elected as Pramukh and Sk. Qamrul Hoda has been elected as Up- pramukh of the Block Panchayat Samiti, Sikta and they have been given oath and oath ceremony Sub Divisional vide was also recorded. The Officer, no. letter its 23.02.2024 proceedings has Narkatiaganj 105/Ni. dated communicated the of meeting District Magistrate before the cum- District Election Officer, West Champaran at Bettiah by which Sri Ajit Kumar has been elected as Pramukh and Sk. Qamrul Hoda has been elected as Up-pramukh of the Block Panchayat Samiti, Sikta.

8. That it is most humbly submitted that election for the selection Pramukh and Up-Pramukh of the Block Panchayat Samiti, Sikta was convened on 23.02.2024 in the presence elected members of the Block Panchayat Samiti, Sikta and



Sri Ajit Kumar has been elected as Pramukh and Sk. Qamrul Hoda has been elected as Up Pramukh of the Block Panchayat Samiti, Sikta.”

19. Another counter affidavit of respondent nos. 10 to 21 and 29 is on record and paragraph 5 deals with the reason why the notice was handed over to the Officers though address to the Pramukh/petitioner.

20. Paragraph-5 read as follows:-

“5. That it is humbly stated that as per the provisions laid down under section 44 (3) of the Bihar Gram Panchayat Act, the requisition for convening the Special Meeting addressed to the Prakhanda Pramukh, Prakhanda Panchayat Samiti Prakhanda Sikta, District-West Champaran was got received in the office of aforesaid Prakhanda Pramukh on 05.01.2024 a copy of which was also send to the Executive Officer cum Block Development Officer, Sikta apart from him to the Sub-Divisional Officer, Narkatiya Ganj Zila Panchayati Raj Adhikari West Champaran and D.M., West Champaran duly signed by a majority of total number of elected Member of aforesaid Panchayat Samiti as the Prakhanda Pramukh of the aforesaid Samiti remain absent from his office for the whole day so that the requisition of the same may not be presented to him and the aforesaid fact is very much evident from Annexure-P/1 read with



P/2 to the writ petition.”

21. The further facts are incorporated that the subsequently the date was fixed and on the date so fixed, meeting took place, the petitioner was ousted and now respondent no. 10, namely, Ajit Kumar and respondent no. 29 namely, Qamrul Hoda have taken over as the Pramukh and Up-Pramukh respectively of the Sikta Block Panchayat Samiti, West Champaran.

22. This Court has gone through the facts of the case as also the materials on record. The admitted/ unrefuted facts are that the requisitionists firstly approached the petitioner (*as incorporated in paragraph-5 of the counter affidavit filed by the respondent nos. 10 to 21 and 29*) according to which, he absented from his office for a whole day and in that background, it could not be presented.

23. Further, upon the request of the respondent-Executive Officer, Sikta, the petitioner himself fixed the date as 18.01.2024 on the said date, discussion/voting took place and the petitioner was ousted from the post of the Pramukh.

24. The allegation of the petitioner that between the date fixed by him till the date of special meeting, he could not contact the member cannot be a ground to declare the special meeting illegal.



25. It is not the case of the petitioner that there was any F.I.R. lodged by any family member about the missing of the Panchayat Samiti Member. It is further not the duty of the Pramukh (petitioner) to influence each and every member by visiting their respective home prior to the special meeting.

26. So far as the case of **Sheikh Hassmuddin & Anr. vs. The State of Bihar & Ors.** (supra) is concerned, in that case, the Division Bench took note of the fact that there was no service of notice on the Pramukh and in that background, it was held that the definite purpose for the legislature was to get the copy served upon the Pramukh first as he/she is the person to face the heat.

27. However, in this case, the unrefuted fact is that the members waited for him in the office, he disappeared for the whole day and in that background, the copy though addressed to the petitioner was handed over to the Executive Officer. The petitioner thereafter fixed the date himself, the present Division Bench order in no way applicable to him. Only after the 'No confidence Motion' was passed against him, the allegation has been levelled.

28. As per the respondents, new Pramukh and Up-Pramukh have already taken their respective seats.



29. This takes us to only one conclusion. The writ petition is bereft of merit and is fit to be dismissed.

30. Accordingly ordered. The writ petition is dismissed.

(Rajiv Roy, J)

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