

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2707 of 2024

Beby Devi wife of Manoj Kumar, resident of Village-Harpura, Pirhi, P.S.
Dulhin Bazar, District-Patna-801102.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Additional Chief Secretary, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
3. The Director, Panchayati Raj, Department of Panchayati Raj, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
4. The Collector cum District Magistrate, District-Patna.
5. The District Panchayat Raj Officer, Patna.
6. The Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, District-Patna.
7. Rekha Devi, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
8. Jay Kumar, son of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
9. Pramod Kumar Prabhakar, son of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
10. Nawlesh Kumar, son of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
11. Arun Kumar, son of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
12. Neeraj Kumar, son of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
13. Manorma Devi, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.



- 14. Piniki Devi, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
- 15. Archana Sharma, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
- 16. Ram Prasad, son of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
- 17. Seema Singh, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
- 18. Sonalika Devi, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
- 19. Jyoti Devi, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
- 20. Gyatri Devi, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
- 21. Suryamani Devi, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.
- 22. Anita Devi, wife of not known, Panchayat Samiti Member of the Block Panchayat Samiti, Dulhin Bazar, through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Block-Dulhin Bazar, Patna.

... .. Respondent/s

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Appearance :

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For the Petitioner/s	: Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekher, Advocate Ms. Abhilasha Jha, Advocate
For the State	: Mr. Arvind Kumar, AC to GA-9
For the private respondent	: Mr. Ashok Kumar Choudhary, Sr. Advocate Mr. Akshansh Ankit, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY



CAV JUDGMENT

Date : 09.08.2024.

I.A. No. 01 of 2024.

The present Interlocutory Application has been filed seeking amendment to the reliefs prayed for in paragraph 1 of the writ petition:

"To issue an appropriate writ, order or direction in the nature of certiorari for quashing the proceedings of special meeting convened on 19.02.2024 of the Panchayat Samiti, Dulhin bazar, whereby and whereunder the no confidence motion brought against the petitioner (pramukh), has been passed and the petitioner has been removed from the office of pramukh, on the ground that the said special meeting was convened on the basis of a requisition which was not valid in the eye of law as the same did not contain clear and specific charges against the petitioner as per the requirement of Section 44(3) (iv) of the Bihar Panchayati Raj Act, 2006 and also on the ground that the requisition was never actually served upon the petitioner as per Section 44(3)(i) of the Bihar Panchayati Raj Act, 2006."

2. There is no opposition from the other side.

3. I.A. No. 01 of 2024 is allowed. Let the prayer herein be considered as reliefs prayed for in the main writ



petition.

CWJC No. 2707 of 2024.

1. The present petition has been filed for grant of the following reliefs:

(i) to issue an appropriate writ, order or direction in the nature of certiorari for quashing the order contained in memo no. 392 dated 23.01.2024 (Annexure 5) passed by Respondent Collector- cum- District Magistrate, District- Patna under section 157 of the Bihar Panchayati Raj Act, 2006 whereby and whereunder the objections of the petitioner against the no confidence motion brought against her as Pramukh of Dulhin Bazar Panchayat Samiti has been rejected and the Respondent Block Development Officer has been directed to fix a new date to convene the special meeting for considering the no confidence motion;

(ii) to issue an appropriate writ, order or direction in the nature of certiorari for quashing letter no. 105 dated 25.01.2024 (Annexure 6) issued by Respondent Block Development Officer directing the petitioner to fix a new date to convene the special meeting for considering the no confidence motion brought against



her;

(iii) to issue an appropriate writ, order or direction in the nature of certiorari for quashing requisition dated 04.01.2024 issued under the signature of respondent no. 7 12 (Panchayat Samiti members of the Block Panchayat Samiti, Dulhin Bazar), whereby and where under the said members have made a request to convene a meeting of the Block Panchayat Samiti for consideration of a no confidence motion against the petitioner, on the ground that the said requisition is not a valid requisition in the eye of law as the same does not contain clear and specific charges against the petitioner as per the requirement of Section 44(3)(iv) of the Bihar Panchayati Raj Act, 2006 and also on the ground that the same has not been validly been served upon the petitioner as per Section 44(3)(i) of the Bihar Panchayati Raj Act, 2006 and routed through the block Development Officer;

(iv) during pendency to the writ application, the Respondents should be directed not to proceed further with the requisition dated 04.01.2024 and convene a meeting of the Block Panchayat Samiti for consideration of the no confidence motion against the petitioner;



(v) this Hon'ble Court may adjudicate and hold that the any requisition for no confidence motion must contain clear and specific charges against the incumbent so that the person who faces a motion of no- confidence may know what he/she is up against;

(vi) to grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

2. The facts of the case is/are as follows:

3. The petitioner was elected as the **Pramukh** of the **Block Panchayat Samiti, Dulhin Bazar, Patna** on 03.01.2022 after being elected as the Panchayat Samiti member from **Election Area No. 12, Narhi-Pipri Panchayat** on 22.10.2021.

4. Two years later, on 04.01.2024, the petitioner was served with a requisition signed by six Panchayat members (Respondent nos. 7 to 12) with a request to convene a meeting of the Block Panchayat Samiti for consideration of a 'No Confidence Motion' against the petitioner. The said requisition was handed over to the petitioner by the respondent no. 6, the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Dulhin Bazar, Patna vide office letter no.



17 dated 04.01.2024.

5. The case of the petitioner is that it is in teeth of section **44 (3)(i) of Bihar Panchayati Raj Act, 2006** (henceforth for short, '**the Act**') which mandates that the requisition for convening a special meeting has to be presented to the 'Pramukh' in writing with a copy to the Executive Officer of the Panchayat Samiti by not less than one third of the total number of members directly elected from the Panchayat Samiti.

6. The further case is that a perusal of the requisition dated 04.01.2024 shall reveal that the charges leveled against the petitioner are quite vague, non-specific and appears to have been levelled only for the sake of bringing the 'No Confidence Motion' to remove her from the post of Pramukh.

7. The petitioner preferred writ petition vide CWJC No. 849/2024 challenging the said requisition. The writ application was disposed of vide an order dated 16.01.2024 with a direction to the Respondent Collector, Patna to decide the matter under section 157 of 'the Act'.

8. A bare perusal of the order dated 16.01.2024 shall reveal that the Respondent Collector, Patna was to decide the



matter on the alleged violation of the provisions of section 44 or 46 of 'the Act' in calling of 'No Confidence Motion' and was further required to pass a speaking order in accordance with law.

9. In the light of the aforesaid order, the respondent Collector, Patna issued notice to all the members of the Panchayat Samiti to be present before him on 18.01.2024 and fixed 21.01.2024 as the date of hearing.

10. After hearing the parties, the respondent Collector-cum-District Magistrate, District- Patna vide office memo no. 392 dated 23.01.2024 rejected all the objections of the petitioner against the 'No Confidence Motion' brought against her and further directed the Respondent no. 6, the Block Development Officer, Dulhin Bazar to fix a new date to convene the special meeting for considering the 'No Confidence Motion'.

11. Consequent thereto, the Respondent Block Development Officer, Dulhin Bazar issued letter no. 105 dated 25.01.2024 requesting the petitioner to fix a new date to convene the special meeting for considering the 'No Confidence Motion'.

12. The contention is that the Respondent Collector,



Patna has failed to discharge its obligation under section 157 of 'the Act' and further failed to comply with the order of this Hon'ble Court in letter and spirit. In the process, the petitioner is being compelled to undergo the rigors of a 'No Confidence Motion' without there being any concrete and specific charge of misconduct.

13. Thus it needs interference and the writ petition be allowed.

14. A counter affidavit has been filed on behalf of the respondent nos. 1 to 6 and the relevant paragraphs read as follows:

"9. That six members of Panchayat Samiti made a request on 04.01.2024 before the Pramukh, Dulhin Bazar, Patna to convene a Special Meeting for discussion for no- confidence motion against the Pramukh and Up-Pramukh. In the light of aforesaid application, the respondent no. 6 vide letter no. 17 dated 04.01.2024, requested with the Pramukh to fix a date. The Pramukh, vide letter no. 91 dated 08.01.2024 fixed the date of Special Meeting on 18.01.2024. The meeting was adjourned in the light of the order passed in CWJC No. 849 of 2024 and by order of District Magistrate, Patna on 16.01.2024



which was informed to the member of Panchayat Samiti vide letter no. 83 dated 17.01.2024.

10. That in compliance of the order passed in CWJC No. 849 of 2024, the District Magistrate conducted hearing on 18.01.2024 and 23.01.2024 in presence of members of the Panchayat Samiti. Subsequently, the District Magistrate vide Memo No. 392 dated 23.01.2024 directed the Block Development Officer-cum-Executive Officer, Dulhin Bazar which are as follows:-

"To ensure the date of Special Meeting after complying the clear seven days information under section 44(3)(i) of the Bihar Panchayati Raj Act, 2006 for discussion on Non Confidence in compliance of the order passed by the Hon'ble High Court."

11. That in compliance of the order passed by the District Magistrate, a request was made with the Pramukh to fix a date and time of the Special meeting for discussion on the No Confidence against the Pramukh and Up-Pramukh vide letter no. 105 dated 25.01.2024 which was rejected by Pramukh on 27.01.2024 but no date was fixed by the Pramukh even after lapse of seven days i.e, 27.01.2024 to



02.02.2024.

12. That a requisition was made available to the undersigned by the Six Members of the Panchayat Samiti on 05.02.2024 for fixing a date for discussion on No Confidence which was received by Up- Pramukh namely Gayatri Devi no date was fixed by the Up-Pramukh from 05.02.2024 to 09.02.2024.

13. That the six members of the Panchayat Samiti themselves fixed the date of Special Meeting on 19.02.2024 at 11.00 A.M. for discussion No Confidence against the Pramukh and on 19.02.2024 at 02.00 P.M. for discussion No Confidence against the Up-Pramukh. In the light of aforesaid decision, the information as served to all the members of the Panchayat Samiti by 10.02.2024.

14. That on 19.02.2024, the proceeding of the Special Meeting was held at 11.00 A.M. and 02.00 P.M. for discussion as No Confidence and No Confidence was passed against the Pramukh and Up-Pramukh respectively.

15. Learned State Counsel submits that lots of water has flown down the Ganges inasmuch as subsequently, election of 'Pramukh' took place and respondent no. 7, Rekha Devi has been elected.



16. It is the further submission that the said election has not been challenged by the petitioner and as such, the writ petition is fit to be dismissed.

17. Having heard the parties and perusing the records, the facts which are not disputed that:

(i) the petitioner claiming that the requisition was not directly made to her, moved this Court in CWJC No. 849 of 2024;

(ii) it was heard and disposed of by the co-ordinate bench on 16.01.2024 with a direction to the Collector, Patna to act in line with Section 157 of 'the Act';

(iii) the Collector, Patna issued notices upon the members and thereafter vide memo no. 392 dated 23.01.2024 rejected all the objection;

(iv) the Collector, Patna, after hearing the parties and perusing the records, passed the order and as such, all the earlier decisions merged with it;

(v) further, the undisputed fact is that the petitioner herself fixed the date as 18.01.2024 for the special meeting to discuss the 'No Confidence Motion';

(vi) once the petitioner fixed the date herself, she waived off the right to challenge the requisition having not



been directly served upon her;

(vii) the further allegation that the charges are vague has/have been elaborately dealt by the Collector, Patna while rejecting the objection of the petitioner;

(vii) it was only thereafter that the Collector, Patna vide memo no. 392/394 dated 24.01.2024 directed the respondent, Block Development officer cum Executive Officer (Panchayat), Dulhin Bazar to act in line with section 44 (3) (iv) of 'the Act';

(ix) accordingly, the petitioner was requested to fix the date of meeting by the respondent no. 6 vide memo no. 105 dated 25.01.2024;

(x) it was rejected on 27.01.2024 by the petitioner whereafter after waiting for seven days, the requisitionists on 05.02.2024 made available requisition to the 'Up Pramukh' and when even then no date was fixed, they themselves fixed the date as 19.02.2024 as per 'the Act';

(xi) On that day, 'No Confidence Motion' against the petitioner and 'Up-Pramukh' were taken up and after the discussion, it stood passed;

(xii) on the vacant post, election took place and respondent no. 7, Rekha Devi has been elected as the



Pramukh;

(xiii) the petitioner has not filed any Interlocutory Application challenging the election of respondent no. 7 as new 'Pramukh'.

18. This Court reiterates that it was the petitioner herself who fixed the first date of the meeting on 18.01.2024 which subsequently took place on 19.02.2024. Now, she cannot turn around and hide behind 'the Act' to get the special meeting declared invalid.

19. The matter went to the respondent, the District Magistrate, Patna who having gone through the facts/records/pleadings passed an order which followed the special meeting to discuss the 'No Confidence Motion' against both the 'Pramukh' as also the 'Up-Pramukh' and the motion was/were declared pass. Elections took place on the vacant post and respondent no. 7 now occupies the chair. The petitioner has accepted the said election and chose not to file any Interlocutory Application challenging it.

20. In our democratic setup, the Chairperson, the Pramukh and/or the Mukhiya must enjoy the confidence of the majority of the house and if the numbers goes against him/her, he/she should make way for others to occupy the chair unless



glaring irregularity/illegality comes into picture.

21. All the facts/submissions have been incorporated in the order which takes this Court to only one conclusion, the writ petition is fit to be dismissed.

22. Accordingly ordered. The writ petition stands dismissed.

(Rajiv Roy, J)

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AFR/NAFR	
CAV DATE	30.07.2024.
Uploading Date	09.08.2024.
Transmission Date	

