

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2030 of 2024

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Bharat Prasad Son of Late Bindeshwari Sah Resident of Village- Patkhauli, Ward No. 14, P.O.- Mushahari, P.S.- Yogapatti, District- West Champaran at Bettiah, Presently Pramukh, Block Panchayat Samiti, Yogapatti, 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 Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, District- West Champaran at Bettiah,
6. Manju Devi Wife of not known to the Petitioner Presently Up-Pramukh, Block Panchayat Samiti, Yogapatti, P.O. and P.S.- Yogapatti, District- West Champaran at Bettiah,
7. Ram Prabha Devi Wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.- Yogapatti, District- West Champaran at Bettiah.
8. Subhagwati Devi wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.- Yogapatti, District- West Champaran at Bettiah.
9. Meena Devi Wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.- Yogapatti, District- West Champaran at Bettiah.
10. Chhotelal Manjhi Son of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.- Yogapatti, District- West Champaran at Bettiah.
11. Bhanu Yadav son of not known to the petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.- Yogapatti, District- West Champaran at Bettiah.
12. Dhurendra Sah son of not known to the petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.- Yogapatti, District- West Champaran at Bettiah.
13. Naresh Prasad Son of not known to the Petitioner The Elected Member of



- Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
14. Akali Devi wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 15. Munni Devi wife of not known to the petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 16. Tara Devi wife of not known to the petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 17. Guriya Devi wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 18. Mobina Khatoon wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 19. Manorma Devi wife of not known to the petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 20. Gayatri Devi wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 21. Sheela Devi wife of not known to the petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 22. Malti Devi wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 23. Yogesh Prasad son of not known to the petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
 24. Santosh Baitha son of not known to the p0etitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.



- 25. Chinta Devi wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
- 26. Rustam Alam son of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
- 27. Manju Devi wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
- 28. Sunil Yadav son of not known to the petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
- 29. Aisa Khatoon wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
- 30. Ram Shankar Prasad son of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.
- 31. Sushila Devi wife of not known to the Petitioner The Elected Member of Block Panchayat Samiti, Yogapatti through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Yogapatti, P.O. and P.S.-Yogapatti, District- West Champaran at Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam, Advocate
Mr. Awnish Kumar, Advocate
For the Respondent/s : Mr. S. Raza Ahmad, AAG-5
Md. Kamil Akhtar, AC to AAG-5

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-02-2024

Heard Mr. S.B.K. Manglam, learned counsel
appearing on behalf of the petitioner and Mr. S. Raza Ahmad,
learned AAG -5 for the State.

2. Petitioner has filed the writ petition for following



relief(s):

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the requisition dated 09.01.2024 signed by 16 elected members of Block Panchayat Samiti, Yogapatti addressed to the petitioner but submitted in the office of Respondent no. 5 on 09.01.2024, whereby and where under the signatory members had made a grievance from the petitioner to convene the special meeting of the Block Panchayat Samiti 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 notice of the special meeting issued under the signature of the Respondent no. 5 and contained in his letter no. 53 dated 24.01.2024 whereby and where under he has been pleased to inform the petitioner about the special meeting of Block Panchayat Samiti convened on 03.02.2024 for consideration of No Confidence Motion against the petitioner.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petition would be found entitled under the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that the requisitionists have not personally presented the requisition which was received in the office of the Block Development Officer on 09.01.2024 and the petitioner came to know about the requisition that 16 elected members of the Panchayat Samiti have called for special meeting of ‘No Confidence Motion’ against the petitioner on frivolous charges, which is in violation of Section 44 (3) (iv) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as ‘the Act’) and based on the said requisition, the Block Development Officer in connivance with the interested requisitionists has fixed the date of special meeting on 03.02.2024, which is not in



accordance with the provision of Sections 44 (3) (i) (iv) of the Act. Learned counsel in these background submitted that the Block Development Officer is only required to fix a date on the basis of the recommendation of the Pramukh or Up-Pramukh or the requisitionists, as the case may be, as in terms of Section 44 (3) (i) of the Act. The action of the Block Development Officer can be considered to be not in accordance with law as he instead of directing the requisitionists to present the requisition before the petitioner, who is the Pramukh, has proceeded to notify the special meeting of 'No Confidence Motion' on 03.02.2024. The notice is also devoid of any circumstances being dealt with the Block Development Officer dealing with the preliminary fact before he has exercised his jurisdiction in issuing notice that such request was made by him to the requisitionists.

4. Learned counsel for the State submits that the petitioner cannot bypass the provision of the Act, especially, the provisions contained in Section 44 of the Act, which is required to hold a special meeting once he comes to the knowledge that a requisition has been made for calling of special meeting of 'No Confidence Motion' against him. Petitioner has deliberately tried to mislead this Court by making a statement that the requisition was never made to him by the requisitionists.



5. Having considered the rival submissions made on behalf of the parties, as well as, the notice contained in Letter No. 25 dated 09.01.2024 issued under the signature of Block Development Officer-cum-Executive Officer, Yogapatti, West Champaran. According to Section 44 (3) (i) of the Act, a requisition is required to be served to the Block Development Officer notifying for issuing notice to the elected members of the Panchayat Samiti including the Pramukh and Up-Pramukh the date of meeting.

6. I have perused the notice. The notice don't contain that the said notice has been served upon the elected members after having dealt the jurisdictional fact. The Block Development Officer was required to first satisfy himself before issuing notice by dealing with the jurisdictional fact. In this case requirement was that, as to whether, the record reveals that no requisition was made before the Pramukh, who is the petitioner in this case.

7. The existence of jurisdictional facts is sine qua non or a condition precedent to the assumption of jurisdiction by a Court, Tribunal or Authority. The Apex Court in the case of **Carona Ltd. v. Parvathy Swaminathan & Sons, (2007) 8 SCC 559**, has held as follows:-



“27. Stated simply, the fact or facts upon which the jurisdiction of a court, a tribunal or an authority depends can be said to be a “jurisdictional fact”. If the jurisdictional fact exists, a court, tribunal or authority has jurisdiction to decide other issues. If such fact does not exist, a court, tribunal or authority cannot act. It is also well settled that a court or a tribunal cannot wrongly assume existence of jurisdictional fact and proceed to decide a matter. The underlying principle is that by erroneously assuming existence of a jurisdictional fact, a subordinate court or an inferior tribunal cannot confer upon itself jurisdiction which it otherwise does not possess.”

8. Considering the fact that in absence of any jurisdictional fact clearly stated in the notice, the notice contained in Annxure-P-2 is hereby set aside and quashed and consequential communication contained in Letter No. 53 dated 24.01.2024 is also set aside and quashed.

9. The petitioner, who came into the knowledge of the requisition and charges levelled against him on 09.01.2024 must not refrain from special meeting of ‘No Confidence Motion’ which is to be held on 03.02.2024.

10. Accordingly, the writ petition stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	02.02.2024
Transmission Date	N/A

