

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2744 of 2024

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Rekha Devi @ Rekha Jha, Wife of Sanjay Kumar Jha, Resident of Village-
Rasiyari, Near Jagiya Pul, Post- Rasiyari, P.S.- Alinagar, District- Darbhanga,
Bihar- 847427.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Darbhanga.
5. The District Panchayati Raj Officer, Darbhanga.
6. The Sub-Divisional Officer, Biraul, Darbhanga.
7. The Executive Officer, Panchayat Samiti cum Block Development Officer, Kiratpur, Darbhanga.
8. The Deputy Development Commissioner (DDC) Darbhanga.
9. Gauri Shankar Paswan, son of not known to the Petitioner, at present Member Panchayat Samiti, (Panchayat Samiti Kshetra No. 05), Darbhanga, Members of Panchayat Samiti, Kiratpur, District- Darbhanga.
10. Ladali Pravin, wife of not known to the Petitioner, at present Member Panchayat Samiti, (Panchayat Samiti Kshetra No. 03), Darbhanga, Members of Panchayat Samiti, Kiratpur, District- Darbhanga.
11. Badre Alam Ansari, son of not known to the Petitioner, at present Member Panchayat Samiti, (Panchayat Samiti Kshetra No. 10), Darbhanga Members of Panchayat Samiti, Kiratpur, District- Darbhanga.
12. Akhtar Ali, son of not known to the Petitioner, at present Member Panchayat Samiti, (Panchayat Samiti Kshetra No. 08), Darbhanga Members of Panchayat Samiti, Kiratpur, District- Darbhanga.
13. Azad Khan, son of not known to the Petitioner, at present Member Panchayat Samiti, (Panchayat Samiti Kshetra No. 09), Darbhanga Members of Panchayat Samiti, Kiratpur, District- Darbhanga.
14. Ranjeet Yadav, son of not known to the Petitioner, at present Member Panchayat Samiti, (Panchayat Samiti Kshetra No. 05), Darbhanga Members of Panchayat Samiti, Kiratpur, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravindra Singh, Advocate
For the Respondent/s : Mr. Niraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH



ORAL JUDGMENT

Date : 13-02-2024

Re : Interlocutory Application

Learned counsel appearing on behalf of the petitioner informs this Court that he has already filed an Interlocutory Application in the changed circumstances bringing on record the action taken by the requisitionist and the Block Development Officer-cum-Executive Officer, Kiratpur and accordingly seeks modification of reliefs sought for in paragraph No. 1 of the main writ petition.

2. For the reasons assigned in the Interlocutory Application and on perusal of the pleadings made therein and the Affidavit, the above IA is allowed.

3. Hard copy of the Interlocutory Application is kept on record.

Re : CWJC No. 2744 of 2024

4. The petitioner has prayed for following reliefs as prayed for in paragraph No. 1 of the writ petition :-

"1. That the petitioner, an elected Pramukh of the Panchayat Samiti, Kiratpur (Darbhanga) inter alia prays for the following reliefs :-

(i) To set aside the part of the order contained in Memo No. 51 dated 27.01.2024 allowing liberty to bring no confidence motion again on the ground



that such observation is contrary to the Section 44 (3)(ii) of the Bihar Panchayat Raj Act, 2006 as amended.

(ii) To hold and declare the requisition dated 29.01.2024, consequent upon the order of the Collector dated 27.01.2024 to be illegal and without jurisdiction as a No Confidence Motion may be brought only once in the whole tenure of Pramukh/ Up Pramukh and the requisition being a No Confidence Motion was not permitted after the first requisition rejected by the Collector under Section 157 of the Panchayat Raj Act, 2006.

(iii) To hold and declare that barely one day after the order of the Collector, the Samiti Members had come out with new charge which demonstrates the whole object is to use the number strength to vote out the Pramukh.

(iv) To hold and declare that the purpose behind 2015 amendment with provision to stop no second, No Confidence Motion against the Pramukh/ Up Pramukh is to accord stability and protection hence the purposive import of the amendment under Section 44(3)(ii) is to restrain No Confidence Motion not necessarily taken to the logical end of voting.

(v) To restrain the Executive Officers/ Private Respondents from taking step including fixing date for Special Meeting pursuant to the Requisition dated 29.01.2024 in as much as that the offending part of the order of the Collector, and the consequential Requisition is in teeth of 2015 Amendment.

(vi) To hold and declare that a



purposive interpretation of Section 44(3) (ii) would always bar repeated requisition once only one no confidence motion during the entire tenure of the Pramukh/ UP Pramukh is permitted and also to hold and declare that the harmonious reading of Section 44(3)(ii) and (iii) bars second requisition and the Collector under Section 157 has no jurisdiction to exceed the provisions of Section 44(3) by allowing requisition for 2nd No Confidence Motion."

5. The petitioner, the elected Pramukh of Panchayat Samiti, Kiratpur (Darbhanga) had challenged the requisition dated 29.01.2024 before this Hon'ble Court on 31st January/ 1st February 2024. The petitioner received letter No. 93 dated 30.01.2024 on 01.02.2024. The petitioner had objected to the validity of requisition also. It is stated that on 02.02.2024, the Samiti members wrote to the petitioner for fixing the date. The petitioner had already informed the Executive Officer about the challenge of the requisition.

6. Learned counsel appearing on behalf of the petitioner submitted that the Executive Officer has arbitrarily acted insofar as communicating the date fixed for the special meeting of no confidence motion on 13.02.2024, to which he had objected and had requested the members of Executive Committee to reconsider the date, however, without applying the mind the BDO-cum-Executive Officer contrary to the



provisions of Section 44(1) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the Act, 2006) has fixed the date of special meeting of no confidence motion on 13.02.2024 i.e. today. On these grounds the petitioner seeks interference of this Court.

7. Mr. Niraj Kumar, learned counsel appearing on behalf of the State, informs this Court that there is no infirmity in the notice contained in letter No. 114 dated 05.02.2025 (Annexure-I/6) communicated by the Executive Officer-cum-Block Development Officer, Kiratpur to the petitioner about the date fixed for special meeting of no confidence motion to be held on 13.02.2024.

8. This Court is surprised by the understanding of the Block Development Officer-cum-Executive Officer who do not have jurisdiction to differ or object the time fixed by the requisitionists, has himself has found that the period of seven days falls on 13.02.2024. This Court finds no infirmity committed by the requisitionists in fixing the date of meeting on 13.02.2024 i.e. today. The petitioner shall have the liberty to either participate in the meeting or he may restrain himself from participating in the meeting. The deliberation in the house has to take place in accordance with the clarification



made in paragraphs 58 and 59 of the Division Bench judgment of this Court in case of ***Dharamsheela Kumari vs. Hemant Kumar & Ors.*** reported in ***2021(3) PLJR 346*** and without deliberation if any motion is passed against the petitioner the same will be in violation of the observation made in paragraph 62 of the decision in case of ***Dharamsheela Kumari*** (supra).

9. The provision of Section 44 of the Act, 2006 is a complete Code. The action of Executive Officer is deprecated who without jurisdiction has tried to interfere with the date fixed by the requisitionist and in complete ignorance of the provision of Section 44 has vide Memo No. 112 dated 03.02.2024 and without jurisdiction has fixed the date of special meeting on 13.02.2024, which admittedly has been fixed by the requisitionist on 13.02.2024 in accordance with the provisions of sub-section (1) of Section 44 of the Act, 2006.

10. This Court do not find any violation of provision of Section 44 of the Act, 2006 in fixing the date of meeting.

11. The writ petition is accordingly allowed.

12. Since the order has been passed in the open Court, learned counsel for the State is directed to communicate this order to all the state respondents for the



needful without waiting for the order to be pronounced.

(Purnendu Singh, J)

Rajesh/-

AFR/NAFR	NA
CAV DATE	NAFR
Uploading Date	14.02.2024
Transmission Date	

