

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.113 of 2024

In

Civil Writ Jurisdiction Case No.1690 of 2024

Avadhesh Paswan son of Suresh Paswan, Resident of village - Mulrajpur
Diyara, Block and P.S. - Bakhtiyarpur, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar Through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The District Magistrate, District - Patna, Patna.
3. The Sub-Divisional Officer, Sub-Division Barh, District Patna.
4. The Block Development Officer -cum- Executive Officer, Block - Bakhtiyarpur, District - Patna.
5. Kanchan Ray, Up-pramukh, Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
6. Jaymala Kumari, member, Karnauti (north), Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
7. Manohar Ray, member, Satmaya Ramnagar, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
8. Gulfaraz Alam, member, Alipur Bihar, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
9. Nitu Kumari, member, Ghoswari, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
10. Roshni Devi, member, Ghagh, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
11. Pinki Devi, member, Hidayatpur Saidpur, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
12. Arun Mahto, member, Hardaspur, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.



- 13. Nakul Mochi, member, Misi, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 14. Rajni Devi, member, Mogalpur, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 15. Babita Kumari, member, Domaan, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 16. Santosh Kumar, member, Vidhipur, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 17. Gita Devi, member, Vidhipur Narauli, Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 18. Nibha Kumari, member, Champapur (West), Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.
- 19. Indu Devi, member, Champapur (East), Panchayat Samiti, Bakhtiyarpur, elected members of Panchayat Samiti, Bakhtiyarpur through the Block Development Officer, Bakhtiyarpur, District - Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Akshansh Ankit, Adv
For the Respondent/s : Mr.Government Advocate 02

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-02-2024

We have heard learned senior counsel for the appellant and learned counsel appearing for the respondents.

2. The petitioner is aggrieved by the fact that the learned Single Judge had specifically fixed the date of no confidence



motion on or before 07.02.2024, which is against the statutory provision as coming forth in Section 44(3)(ii) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act').

3. Admittedly, there was a requisition made for no confidence of the Pramukh and the Up-Pramukh on 02.01.2024. The no confidence motion against the Pramukh and Up-Pramukh was made in in one application. It is also stated that the Block Development Officer had fixed the date, without reference to the Pramukh while it was for the Pramukh to convene a meeting within 15 days.

4. We do not find any infirmity, in the learned Single Judge having directed a no confidence motion on or before 07.02.2024, which is past the 15 days period from 02.01.2024 especially since the Pramukh was not forthcoming with a date as provided in the statute. The learned Senior Counsel was also not able to show us any statutory provision by which separate no confidence motions had to be placed before the Pramukh, or for no confidence to be moved against the Pramukh and the Up-Pramukh separately. Learned Senior Counsel has also raised a contention that the allegations were vague, which we are not obliged to go into, since it has to be decided on the floor, when the no confidence motion is considered.



5. The Court cannot decide on the allegations in a no confidence motion; which if done will result in choking the voice of the people; anathema to democracy.

6. We specifically notice that, if the meeting is not convened within 15 days of such requisition, then the majority of the members has to convene a meeting.

7. We notice, by approaching this court, the no confidence motion has been kept pending for more than 15 days in violation of the mandate under the Act. In such circumstance, especially noticing the fact that this would lead to frustration of democratic process, we specifically asked the learned Senior Counsel for the appellant to give a date, when the House can be convened to consider the motion. The learned Senior Counsel appearing for the Pramukh has submitted on behalf of the Pramukh that the date can be fixed 15 days from today.

8. Though it is not strictly the mandate of the Act, we feel it appropriate that the date can be fixed by us on the consent given by the Pramukh which is consented to by the learned counsel for the party respondents also.

9. The Block Development Officer shall fix the date on 24.02.2024, on which date, the no confidence motion shall be placed and considered by the House.



10. The appeal stands disposed of.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2024
Transmission Date	

