

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2089 of 2024

Geeta Singh wife of Deepak Kumar, resident of Village and P.O. Indrar, Indrarh, District Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Panchayati Raj Department, Govt. of Bihar, Patna.
2. The District Magistrate, Aurangabad (Bihar).
3. The District Panchayati Raj Officer, Aurangabad (Bihar).
4. The Block Development Officer Rafiganj Cum Executive Officer, Rafiganj Panchayat Samittee, P.O. and P.S. Rafiganj, District Aurangabad (Bihar).
5. Rajanti Devi, wife of Kamlesh Singh, at present Up- Pramukh of Panchayat Samittee Rafiganj Block, village Itar, P.O.- Pauthu, District Aurangabad.
6. Sadhna Singh, wife of Chhote Sharma, Member of Panchayat Samittee of Territorial Constituency No.1, resident of Village and P.O.- Darpa, District Aurangabad (Bihar).
7. Saweety Devi, wife of Manoranjan Sharma, the Member of Panchayat Samittee of Territorial Constituency No.2, resident of Village and P.O.- Pauthu, District Aurangabad (Bihar).
8. Anju Devi, wife of Mahendra Yadav, the Member of Panchayat Samittee of Territorial Constituency No.3, resident of Village- Itar P.O. Pouthu, District Aurangabad (Bihar).
9. Savitri Devi, wife of Birendra Yadav, the Member of Panchayat Samittee of Territorial Constituency No. 5, resident of Village Karma P, District Aurangabad (Bihar).
10. Ramashis Kumar Nirala, son of Umesh Kumar, the Member of Panchayat Samittee of Territorial Constituency No. 6, resident of Village and P.O. Pouthu, District Aurangabad (Bihar).
11. Mukesh Kumar Singh, son of Ramdhar Singh, the Member of Panchayat Samittee of Territorial Constituency No.9, resident of Village and P.O. Pogar, District Aurangabad (Bihar).
12. Upendra Yadav, son of Alakh Yadav, the Member of Panchayat Samittee of Territorial Constituency No.10, resident of Village and P.O.- Sharda Bigha,



P.S.- Rafiganj, District Aurangabad (Bihar).

13. Prabha Devi, wife of Gopal Prasad, the Member of Panchayat Samittee of Territorial Constituency No.11, resident of Village Kajapa, District Aurangabad (Bihar).
14. Kumari Sarita Singh, wife of Rajeev Singh, the Member of Panchayat Samittee of Territorial Constituency No.12, resident of Village Kadsara P.O. Rafiganj, District Aurangabad (Bihar).
15. Sanaha Singh, wife of Amit Kumar Singh, the Member of Panchayat Samittee of Territorial Constituency No.13, resident of Village Kauwakhop, P.O. Rafiganj, District Aurangabad (Bihar).
16. Satendra Yadav, son of Late Chandradeo Yadav, the Member of Panchayat Samittee of Territorial Constituency No.14, resident of Village Hariharganj, P.O. Hariharganj, District Aurangabad (Bihar).
17. Dhiraj Kumar Singh, son of Jagdish Singh, the Member of Panchayat Samittee of Territorial Constituency No.15, resident of Village Jain Bigha P.O. Rafiganj, District Aurangabad (Bihar).
18. Janeshwar Paswan, son of Karu Paswan, the Member of Panchayat Samittee of Territorial Constituency No.16, resident of Village Baliganw P.O. Rafiganj, District Aurangabad (Bihar).
19. Laxmi Saw, son of Mungeshwar Saw, the Member of Panchayat Samittee of Territorial Constituency No.17, resident of Village Khairi Mudila P.O. Rafiganj, District Aurangabad (Bihar).
20. Kartik Sharma, son of late Shivnandan Sharma, the Member of Panchayat Samittee of Territorial Constituency No.18, resident of Village Gazi Karma, P.S. and P.O. Rafiganj, District Aurangabad (Bihar).
21. Rinky Devi, wife of Suraj Choudhary, the Member of Panchayat Samittee of Territorial Constituency No. 19, resident of Village and P.O. Charkanwan, District Aurangabad (Bihar).
22. Rinku Devi, wife of Amar Prasad, the Member of Panchayat Samittee of Territorial Constituency No.20, resident of Village and P.O.- Charkanwan, District Aurangabad (Bihar).
23. Basanti Devi, wife of Surendra Vishwakarma, the Member of Panchayat Samittee of Territorial Constituency No.21, resident of Village Pachhar, P.O. Kasma, District Aurangabad (Bihar).
24. Md. Hassan Sidhiki, son of Abul Hasnat, the Member of Panchayat Samittee



- of Territorial Constituency No.22, resident of Village Kerap, P.O.- Kerap.
District Aurangabad (Bihar).
25. Jainat Fahami, wife of Usman, the Member of Panchayat Samittee of
Territorial Constituency No.23, resident of Village and P.O.- Hakimchak P.S.
Rafiganj, District Aurangabad (Bihar).
26. Noor Fatma, wife of Aman Khan, the Member of Panchayat Samittee of
Territorial Constituency No.24. resident of Village and P.O.- Sihuli, District
Aurangabad (Bihar).
27. Iswar Kumar, son of Satendra Choudhary, the Member of Panchayat
Samittee of Territorial Constituency No.26, resident of Village Gordiha P.O.
Rafiganj, District Aurangabad (Bihar).
28. Ajbun Nisha, wife of Akhlakur Raman, the Member of Panchayat Samittee
of Territorial Constituency No. 27, resident of Village and P.O.- Lohra,
District Aurangabad (Bihar).
29. Sunaina Devi, wife of Ramchandra Saw, the Member of Panchayat Samittee
of Territorial Constituency No. 28, resident of Village and P.O.- Chenw,
District Aurangabad (Bihar).
30. Rubi Parveen, wife of Md. Kaibur Ansdari, the Member of Panchayat
Samittee of Territorial Constituency No. 25, resident of Village Sonwearsa,
P.O. Sonwarsa, District Aurangabad (Bihar).
31. Md. Ehsan, son of Md. Sahahuddin, the Member of Panchayat Samittee of
Territorial Constituency No. 29, resident of Village and P.O.- Rafiganj,
District Aurangabad (Bihar).
32. Arvind Choudhary, son of Kail Choudhary, the Member of Panchayat
Samittee of Territorial Constituency No.30, resident of Village and P.O.
Pipra, District Aurangabad (Bihar).
33. Shanti Devi, wife of Sudama Choudhary, the Member of Panchayat Samittee
of Territorial Constituency No.31, resident of Village Shimla, P.O. Kasma,
District Aurangabad (Bihar).
34. Arti Devi, wife of Awadhesh Rawani, the Member of Panchayat Samittee of
Territorial Constituency No. 33, resident of Village and P.O.- Khaira Itwa,
District Aurangabad (Bihar).
35. Mira Devi, wife of Diwakar Kumar, the Member of Panchayat Samittee of
Territorial Constituency No. 32, resident of Village Miya igha, P.O. Kasma,
District Aurangabad (Bihar).



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shailesh Kumar Singh, Advocate
For the Respondent/s : Mr.Standing Counsel 20
Mr. Ranjeet Choubey, Advocate
Mr. Shanker Thakur, Advocate

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT**

Date : 09-02-2024

Heard the parties.

2. The petitioner has inter alia prayed for following

reliefs:-

“(a) For quashing of the letter No.120 dated 29.01.2024 issued by Block Development Officer cum Executive Officer, Panchayat Samittee Rafiganj calling upon Spl. Meeting of no confidence motion against the petitioner on 08.02.2024 Pramukh and Up-Pramukh, without mentioning any date of requisition contrary to the provision of rule 44(3) of the Panchayat Raj Act 2006.

(b) For a direction to the respondent authority concern to enquire into the requisition of no motion alleged to have been moved by some of Panchayat Samittee members who have not put their signature on the application with date and if it is found to be not in accordance with law and has been brought with vested interest then refuse the motion and take necessary action against the guilty members who are indulge in the corrupt activities in calling of no confidence motion.

(c) For holding that the no-confidence motion proposed by such members who were not physically present and on the basis fake signature application was given, cannot be treated for valid motion of no confidence motion after the order dated 25.01.2024 passed by District Magistrate, Aurangabad passed in misc Case No.03/2024.

And for any other order/orders on the basis of facts and circumstances stated herein after of the case for which petitioner is found to be entitled.”

3. Learned counsel appearing on behalf of the petitioner submitted that petitioner had earlier moved before this Court in CWJC No. 833 of 2024 in which, vide order dated



16.01.2024, this Court had passed *inter alia* following order and directions:

“3. Considering the limited relief(s) as sought for by the petitioner, the District Magistrate, Aurangabad, is directed to call for the records relating to the Panchayat Samiti of concerned Block and fix a date within two days after communication of this order for the attendance of Pramukh, Up-pramukh and all the members of the Panchayat Samiti and seek their signature in his own presence and thereafter, he may fix a date for providing opportunity of hearing to the affected parties and decide the matter considering the charges as contained in the requisition. If he finds that there is violation of manner, as prescribed under Section 44 or Section 46 of the Bihar Panchayat Raj Act, 2006 and same requires interference in any manner with respect to calling of ‘No Confidence Motion’, which has been fixed on 20.01.2024, the District Magistrate after providing opportunity of hearing may pass a speaking order strictly in accordance with law.

4. The special meeting dated 20.01.2024 shall lose its operation till final decision is taken by the District Magistrate.

5. As the order has been passed in the open Court, learned counsel for the State has ensured that he will immediately communicate the District Magistrate, Aurangabad, by both the means, fax, as well as, by telephonic communication, even before the order is pronounced.

6. Accordingly, the present writ petition is disposed of.”

4. The petitioner is aggrieved by the action of the Block Development Officer-cum-Executive Officer, Rafiganj Panchayat Samiti, District- Aurangabad, inasmuch as, fixing the date of special meeting for ‘No Confidence Motion’ on 08.02.2024 in absence of any direction given by the District Magistrate, Aurangabad with regard to call special meeting for ‘No Confidence Motion’. Referring to the Memo No. 167 dated 27.01.2024, the order passed by the District Magistrate, learned



counsel submitted that the District Magistrate had quashed the requisition dated 30.12.2023 submitted by the 12 members of the Panchayat Samiti calling for 'No Confidence Motion' against the petitioner to be not in accordance with law.

5. *Per contra*, learned counsel appearing on behalf of the private respondent nos.6, 8, 10, 15, 16, 17, 18, 20, 22, 23, 25, 28, 29, 31, 34 and 35 informs this Court that they were present on 08.02.2024, the date of special meeting of "No Confidence Motion" along with 19 elected members, in which the voting of "No Confidence Motion" was passed against the petitioner, who is the Pramukh and Up-Pramukh. However, he admits that petitioner was not present in the special meeting.

6. Considering the rival submissions made on behalf of the parties and the order contained in Memo No. 167 dated 27.01.2024 passed by the District Magistrate, Aurangabad, it would be proper for him to scrutinize minutes of meeting recorded in the proceeding book of the meeting held on 08.02.2024 in presence of the elected members and to verify as to how many of elected members were present on 08.02.2024 who had voted against the petitioner and whether the result was declared in terms of the clarification made in paragraphs no. 58 and 59 by the Division Bench of this Court in ***L.P.A. No. 113 of***



2020 (Dharamsila Kumari vs. Hemant Kumar & Ors.).

7. In case, the District Magistrate finds from the proceeding book with respect to special meeting of ‘No Confidence Motion’ held on 08.02.2024 fulfills all the conditions of the provision of Section 44 of the Bihar Panchayat Raj Act, 2006 and the voting was held among the elected members, who were present in course of special meeting held on 08.02.2024 then no interference is required. In case, no voting was conducted among the elected members, who were present in the meeting dated 08.02.2024, then, in that case, he may proceed to direct for holding of special meeting for ‘No Confidence Motion’ among the elected members, who were present on 08.02.2024.

8. The writ petition is disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.02.2024
Transmission Date	NA

