

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2375 of 2024

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Rupanjali Kumari Wife of Arvind Kumar, Resident of village Khoksaha,
Ward No. 7, P.O. - Madhopur, Block- Bibhutipur, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The District Magistrate, District - Samastipur.
3. The Sub-Divisional Officer, Sub-Division - Rosera, District - Samastipur.
4. The Block Development Officer -cum- Executive Officer, Block - Bibhutipur, District - Samastipur.
5. The District Panchayat Raj Officer, District Samastipur.
6. The Up-Pramukh, Panchayat Samiti, Bibhutipur, Block - Bibhutipur, District - Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amresh, Advocate Mr. Ujjwal Kumar, Advocate Ms. Jyoti Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Government Pleader 26

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 09-02-2024 Heard Mr. Amresh, learned counsel appearing on behalf of the petitioner and Government Pleader 26 for the respondent/s.

2. At the outset, learned counsel appearing on behalf of the petitioner seeks to make necessary correction in the writ petition in course of the day.

3. Permission accorded.

4. Petitioner is aggrieved by Letter No. 01 dated 02.02.2024 contained in 'Annexure-P/2' and Letter No. 313



dated 03.02.2024 to be contrary to the provision of Section 44(3)(1) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the “Act, 2006”) and seeks to file detailed representation before the District Magistrate, Samastipur.

5. Learned counsel appearing on behalf of the petitioner submits that matter requires to be adjudicated by the District Magistrate-cum-Collector, Samastipur, in exercise of power under Section 157 of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the ‘Act’).

6. Considering the limited relief(s) as sought for by the petitioner, the District Magistrate, Samastipur, is directed to call for the records relating to the Panchayat Samiti of concerned Block and seek the attendance of Pramukh, Up-pramukh and all the members of the Panchayat Samiti within two days 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 that there is violation of procedure prescribed under Section 44 (3) (i) of the Bihar Panchayat Raj Act, 2006 and in case he finds that the same requires interference in manner the calling of ‘No Confidence Motion’, on 12.02.2024, then in that case, the District Magistrate after providing opportunity of hearing to all



the affected parties may pass a speaking order strictly in accordance with law within one week from the date of attendance filed by all the members. Thereafter, may direct for holding of special meeting of 'No Confidence Motion' to be duly convened in accordance with the provision of Section 44(3) (I) of the Act, 2006. The District Magistrate is directed to follow the clarification made by the Division Bench of this Court in ***L.P.A. No. 113 of 2020 (Dharamsila Kumari vs. Hemant Kumar & Ors.)*** specially in paragraphs no. 58 and 59 of the said judgment for conducting voting amongst the elected members by the presiding officer, who are found to be present on the date fixed for special meeting of 'No Confidence Motion' in accordance with the provision of Section 44 (3)(i) of the Act, 2006.

7. In case of failure by any of the member, the District Magistrate must resort to first enquire, as to whether, he has deliberately avoided to appear before him is for any genuine cause. If it is deliberate, the District Magistrate must ensure to take appropriate action in accordance with law against the concerned member of Panchayat Samiti.

8. The Letters No. 01 dated 02.02.2024 contained in 'Annexure-P/2' and Letter No. 313 dated 03.02.2024 shall loose



its force.

9. Accordingly, the present writ petition is disposed of.

10. 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)

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