

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2787 of 2024

Suchita Ranjani Wife of Chandra Bhushan Kumar, Resident of Village Gannu Bigha (Rashalpur), P.S. - Chakand, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
4. The Director, Panchayati Raj Department, Government of Bihar, Patna.
5. The District Magistrate, Gaya, District-Gaya.
6. The Block Development Officer Cum- Executive Officer, Nagar Block Chandauti, District-Gaya.
7. Sarita Devi, W/o- Manan Chaudhary Resident of village- Kishunpura, Ward No. 18, P.S. Magadh Medical College, District- Gaya.
8. Munita Devi W/o- Birendra Singh Resident of village- Rashalpur, Ward no. 07, P.S.- Chakand, District- Gaya.
9. Suraj Dev Thakur S/o- Ramprit Thakur Resident of village- Gurmrah, Ward No. 01. P.S.- Chandauti, District- Gaya.
10. Samiyara Khatun W/o- Muntisri Alam resident of village- Katahri, Ward no. 02, P.S.- Chakand, District- Gaya.
11. Sahjadi Khatun W/o- Md. Jilani resident of village- Amraha, Ward no. 03, P.S.-Chakand, District- Gaya.
12. Digvijay Singh Solanki S/o- Rajballav Singh resident of village- Hasanpur, Ward no. 04, P.S.-Chakand, District- Gaya.
13. Manju Devi W/o- Sanjeet Kumar resident of village- Chankand Garh, Ward no. 05, P.S.-Chakand, District- Gaya.
14. Kamla Devi W/o- Chotelal Chaudhary resident of village- Harigawn, Ward no. 06, P.S.-Chakand, District- Gaya.
15. Lakshmi Devi W/o- Anup Prasad Gupta resident of village- Naugarh, Ward no. 09. P.S.-Chakand, District- Gaya.
16. Puneer Devi W/o- Satendra Paswan resident of village- Sherpur, Ward no.10, P.S.-Chandauti, District- Gaya.
17. Khushbu Devi W/o- Sanjay Paswan resident of village- Korma, Ward no. 11, P.S.- Chandauti, District- Gaya.
18. Md. Kasiff Ansari S/o- Md. Fahim Ansari resident of village- Bitho Sarif, Ward no. 12, P.S.-Chakand, District- Gaya.
19. Rinki Devi W/o- Satyaraj Chaudhary resident of village - Kewali, Ward no. 13, P.S.-Chandauti, District- Gaya.
20. Asha Devi W/o- Suresh Paswan resident of village- Jamune, Ward no. 14, P.S.- Chanduti, District- Gaya.



21. Rajkishor Prasad Yadav S/o- Vidya Prasad Yadav resident of village- Kujapi, Ward no. 15. P.S.- Chandauti, District- Gaya.
22. Ramakant Row S/o- Jagdish Prasad Row resident of village- Sherpur, Ward no. 16, P.S.- Chandauti, District- Gaya.
23. Ashok Kumar S/o- Raghuni Yadav resident of village- Sahochak, Ward no. 17, P.S.- Chandauti, District- Gaya.
24. Lakshmi Devi W/o- Anup Prasad Gupta resident of village- Naugarh, Ward no. 09, P.S.-Chakand, District- Gaya.
25. Ajay Kumar S/o- Durga Yadav resident of village- Dhanshir Tola Murla Bigha, Ward no. 19, P.S.-Magadh Medical, District- Gaya.
26. Kiran Devi W/o- Premen Manjhi resident of village- Khurar, Ward no. 20, P.S.-Magadh Medical, District- Gaya.
27. Kumari Sunita W/o- Sanjay Kumar resident of village- Pahadpur, Ward no. 21, P.S.-Magadh Medical, District- Gaya.
28. Shiv Shankar Das S/o Ram Chandra Das resident of village - Khiryawan, Ward no. 22, P.S.- Magadh Medical College, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar, Adv.
For the Respondent/s : Ms. Neelam Kumari, AC to SC 3

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 27-08-2024 In this case, on 02.07.2024, notices were issued to the respondent nos. 7 to 28.

2. Mr. S.B.K. Manglam, submits that he has filed *Vakalatnama* on behalf of the respondent nos. 7, 9 to 12, 14 to 21, 23, 25 to 28. So far as respondent nos. 8, 13, 20, 22 and 24 are concerned service report has not been received.

3. Though some respondents have not appeared, learned counsel for the petitioner and Mr. S.B.K. Manglam representing the respondents candidly accept that the special meeting dated 11.01.2024 to discuss “No Confidence Motion”



against the 'Pramukh' of Chandauti *Panchayat*, Gaya was taken up and considering that only 4 of the 22 elected members participated, voting did not took place, the proceedings accordingly came to an end as such, the same cannot be considered to be a concluded meeting.

4. This Court finds force in the submissions of the parties and further the Division Bench Judgment in ***Dharamsheela Kumari* vs *Hemant Kumar & Ors.*** reported in **2021 (3) PLJR 346** especially in **paragraph no. 117 and 118** have clarified that if the motion has not been put to vote, the same cannot be considered as a concluded meeting.

5. The paragraph nos. 117 and 118 of the ***Dharamsheela Kumari*** (*supra*) judgment read as follows:

“117. Having gone through the submissions put to this Court in detail, the Court finds that the allegation of fraud was not established and the Pramukh and the Requisitionists could not have been said to have committed a fraud on the system; the words of Section 44(3)(i) have to be read in conjunction with one another and the majority required to put a motion to vote is



from amongst the members of the Samiti present and voting; the logical conclusion of a motion is 'voting upon' the same, and since no vote took place in the meeting dated 10.08.2018, the motion cannot be said to have been 'brought' and consequently, the bar of Section 44(3)(ii) is not attracted.

118. Thus the questions are answered as under:

Issue No.(i):- The provision of Section 44 of the Bihar Panchayat Raj Act, 2006 is an independent and stand alone Section, a complete code in itself.

Issue No.(ii):- The procedure prescribed under the provisions of Section 46 of the Act for convening a special meeting is neither applicable nor can it be read into for the meeting stipulated under Section 44 of the Act.

Issue No.(iii):- Under Section 44(3) of the Act majority required to put the motion



to vote is amongst the members of the Panchayat Samiti present and voting. No minimum quorum is required for putting the motion of no confidence to vote.

Issue No.(iv):- Section 44(3) of the Act mandates a motion of no confidence to be put to vote by way of a secret ballot.

Issue No.(v):- The impugned action, i.e. resolution dated 10.08.2018 is in fraction of the provisions of the Act and as such is quashed and set aside.

Issue No.(vi):- Section 44 of the Act does not mandate the Requisitionists necessarily to be present in the meeting called to discuss and put to vote the motion of no confidence.

Issue Nos. (vii) & (viii):- In the given facts, absence of the Requisitionists cannot be said to be an act of fraud with an endeavour of defeating the provisions of the



Statue.

Issue No.(ix):- In the absence of the motion being put to vote, the legal bar of moving a fresh motion of no confidence stipulated under Section 44(3)(ii) would not be attracted.

Issue No.(x):- In the attending facts and circumstances, it cannot be said that the acts of the Executive Officer are deliberate leading to dereliction of duty warranting initiation of an enquiry with regard to his act and conduct.”

6. The aforesaid order was taken note of by this Court in the case of ***Sheela Devi @ Sheela Kumari & Ors. vs State of Bihar & Ors. (CWJC No. 1521 of 2024)*** disposed of on **05.08.2024** in which **paragraph nos. 13 to 15** read as follows:

“13. Thus the issue no. ix is very clear: any meeting which came to an end without the motion being put to vote, the legal bar of moving a fresh “Motion of No confidence” stipulated under Section 44(3)(ii) of the Bihar Panchayat Raj Act, 2006 would not be attracted.

14. However, here, admittedly, no such



situation has arisen warranting any comment from this Court and as such, the Court stops at that.

15. The writ petition is disposed of with the aforesaid observation”

7. In this case also, no further request has been made pursuant to the last meeting held and in that background, no direction/observation can be given to the petitioner.

8. Petitioner is at liberty to take fresh steps in accordance with law.

9. Accordingly, the writ petition stands disposed of.

(Rajiv Roy, J)

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