

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.131 of 2024

In

Civil Writ Jurisdiction Case No.1630 of 2024

Nilam Devi, Wife of Manoj Yadav, Resident of Village- Goriyari, Panchayat-
Gourdah Goriyari, Shivmandir, P.S.-Shalkhua, District- Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, 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, Saharsa.
5. The Sub Divisional Officer, Shalkhua, District - Saharsa.
6. The Block Development Officer, Salkhua- cum-Executive Officer, Block Panchayat Samiti, Shalkhua, District-Saharsa.
7. Ajay Kumar, Son of Brahmdev Chaudhary, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
8. Dharmchandra Mahto, Son of Paltan Mahto, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
9. Neelam Devi, Wife of Birendra Singh, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
10. Andula Devi, wife of Manoj Yadav, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
11. Rupa Kumari, Wife of Brajesh Kumar, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
12. Sarita Sangam, Wife of Rakesh Raushan, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
13. Deepak Kumar Yadav, Son of Kamleshwari Yadav, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
14. Chandeshwari Chaudhary, Son of Ramswap Chaudhary, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
15. Md. Meraj Alam, Son of Baseer Alam, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive



- Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
16. Putul Devi, Wife of Sanjay Kumar, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
 17. Nutan Kumari, Wife of Ranjeet Kumar, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
 18. Kumari Indurani, Wife of Anjay Yadav, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
 19. Reeta Devi, Wife of Deepchandra Sada, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
 20. Piyush Goyal, Son of Brahmdev Kumar Yadav, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.
 21. Babulal Yadav, Son of Mangen Yadav, member of Block Panchayat Samiti, Shalkhua, through the Block Development Officer - cum - Executive Officer, Block Panchayat Samiti, Shalkhua, P.S. Shalkhua, District - Saharsa.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Raj Kumar Rajesh, Advocate
Mr. Surya Partap Kumar, Advocate
For the Respondent/s : Mr. Sarvesh Kumar Singh, AAG-13
Mr. Abhinav Alok, AC to AAG-13

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-02-2024

The petitioner is a Pramukh, who is before us challenging the impugned judgment of the learned Single Judge contending that there was lack of jurisdiction on the learned Single Judge to fix a date for considering the 'No Confidence Motion'.

2. The admitted facts are that a requisition was



submitted before the Executive Officer and the Executive Officer forwarded it to the Pramukh. The requisition was of 1/3rd of the members and it was dated 23.01.2024. The Pramukh did not convene a special meeting for considering the 'No Confidence Motion', as stipulated in Section 70(4) of the Bihar Panchayat Raj Act, 2006 (hereinafter referred to as the 'Act'); which had to be constituted within 15 days of receipt of the requisition. The Pramukh approached this Court with the writ petition challenging the requisition. It was specifically pointed out that there were 8 members, who submitted the requisition, in a Council of total of 16 members.

3. The petitioner claimed that the requisition should not have been filed before the Block Development Officer. The Executive Officer scheduled the meeting on 03.02.2024. The petitioner was before this Court challenging such convening of the meeting also.

4. The learned Single Judge found that the 'No Confidence Motion' could be held on 03.02.2024, since already every persons know about the 'No Confidence Motion'. An appeal is filed from the aforesaid judgment.

5. Admittedly the requisition was received by the Pramukh, but no special meeting was convened. Since no



meeting was convened by the Pramukh, the Executive Officer fixed the date for the meeting. The Pramukh challenged the same before this Court. This Court invoking the extraordinary powers under Article 226 of the Constitution confirmed the meeting convened on 03.02.2024, specially since the petitioner, the Pramukh was recalcitrant in convening the meeting.

6. We find absolutely no infirmity in such convening of a meeting. We are also told that as far as the 'No Confidence Motion' is concerned, 12 persons were present in the voting and the Pramukh has been removed and all of the persons present and voting have voted in favour of the 'No Confidence Motion'.

7. In fact there was a question raised as to whether **Dharamsheela Kumari Vs. Hemant Kumar & Ors. (LPA No. 113 of 2020)** and the declaration therein should be followed or not; which the learned Single Judge has directed.

8. We had noticed the direction in the said decision in so far as the finding that the 'No Confidence Motion' would be deemed to be passed on a majority of the members present and voting. In fact, in an earlier judgment by another Division Bench in LPA No. 940 of 2008 (**Sarita Kumari Vs. The State of Bihar**) it was held that the majority should be of the elected



members of the Council.

9. We had in one of the cases referred the matter to the Full Bench, finding that the earlier judgment of the Division Bench is in consonance with the provisions under Section 70(4) of the Act.

10. In the present case, we find absolutely no reason to carry out a reference, since the majority of the persons present and voting also constitute the majority of the total members of the elected Council.

11. We hence find absolutely no reason to interfere in the appeal. The appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2024
Transmission Date	NA

