

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4663 of 2024

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Ganesh Kumar son of Sri Domu Mahto,, resident of Village- Shisho West,
Ward No.16, P.O.- Siso, P.S. -Darbhanga Sadar (Mabbi O.P.), District-
Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Panchayati Raj, Govt. of Bihar, Patna.
3. The Secretary, Election Commission, Panchayati Raj, Patna.
4. The District Election Officer-cum-District Magistrate, Darbhanga, District- Darbhanga.
5. The District Panchayat Raj Officer, District- Darbhanga.
6. The Block Development Officer-cum- the Election Officer Darbhanga Sadar, District- Darbhanga.
7. Sri Kunal Singh, son of not known, Panchayat Secretary of Gram Panchayat Raj Shisho West, District- Darbhanga.
8. Sri Ajay Kumar Thakur, son of Late Ramsograth Thakur, Mukhiya of Gram Panchayat Raj Shisho West, District- Darbhanga.
9. Sri Mangal Sahani, S/o Late Sundar Sahani, resident of village- Shisho West, Ward No.12, P.S. Shisho West (O.P.), District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Kinkar Kumar, SC-9
		Mr. Yogesh Kumar, AC to SC-9
For the SEC	:	Mr. Ravi Ranjan, Advocate
		Mr. Girish Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 20-08-2024 Heard Mr. Raj Kumar Mishra, learned counsel for the

petitioner, Mr. Kinkar Kumar representing the State-respondents

and Mr. Ravi Ranjan, learned counsel for the State Election

Commission.

2. The present writ petition has been preferred for the



grant of following relief/s:-

“(i) For issuance of appropriate writ in the nature of Mandamus Commanding and directing the respondents to produce the proceeding dated 12.01.2024 by which the Mangal Sahani (respondent no.9) is illegally elected as Deputy Mukhiya by the authority.

(ii) For issuance of appropriate writ in the nature of Certiorari for quashing/set aside the proceeding dated 12.01.2024 whereunder and whereby without any notification and without any notice to the petitioner, the Mangal Sahani is elected as Deputy Mukhiya by the authority.

(iii) Any other appropriate writ order or direction as your Lordship may deem fit and proper.”

3. As per the writ petition, the petitioner was ‘Up-Mukhiya’ of the Shisho West Gram Panchayat in the district of Darbhanga. After the two years period lapsed, a requisition was made for holding special meeting to discuss the charge against the petitioner. Accordingly, the ‘Mukhiya’ on 06.01.2024 fixed the date as 12.01.2024 (Annexure R4-6/B to the counter affidavit of the respondent nos. 4 to 6).

4. This followed the special meeting on 12.01.2024 and the proceeding is part of the record which shows that the



petitioner registered his presence at serial no. 16. In fact, it was almost full attendance and out of 15 members, 12 voted for the 'No Confidence Motion' while three against it. Accordingly, it was declared passed on the said date (12.01.2024). This followed the office letter no. 73 dated 18.01.2024 issued by the office of Block Development Officer, Sadar, Darbhanga addressed to the District Panchayati Raj Officer, Darbhanga informing him about the vacancy that has been created due to passing of 'No Confidence Motion' against the petitioner herein.

5. In the present writ petition, it has been claimed that the respondent no. 9, Mangal Sahani has been elected as 'Up-Mukhiya' on 12.01.2024.

6. This matter was taken up on 19.08.2024 also when learned counsel for the petitioner, Mr. Raj Kumar Mishra made a very different submission that he never appeared in the special meeting and as such, he do not have any knowledge whether on 12.01.2024 the 'No Confidence Motion' was passed against him and/or election of new 'Up-Mukhiya' took place where Mangal Sahani was elected to the post. According to him, if at all there is any signature on the proceeding, the same is forged and fabricated.

7. Mr. Ravi Ranjan, learned counsel appearing on



behalf of the State Election Commission on the other hand had taken this Court to Annexure-P/3 of the writ petition to show that the petitioner on 19.01.2024 while submitting an application to the District Magistrate, Darbhanga himself accepted that upon knowledge that the special meeting is taking place, he went there and registered his presence.

8. In that circumstance, considering the claim of the petitioner that the signature on the proceeding is forged, this Court at one point of time wanted investigation/lodging of the FIR but at the request of learned counsel for the petitioner, it was adjourned for 20.08.2024.

9. Today, upon confronted with Annexure – P/3 to the petition, his submission is that the Court should go by the affidavit and not by his submission before passing an order. The stand of the learned counsel for the petitioner, Mr. Raj Kumar Mishra is deprecated. The Court has to believe the submissions of the learned counsels and if such kind of false statements are made, it is unfortunate. He tried to hoodwink this Court by making a false allegation that forged signature has been made in the special meeting to show his presence whereas his application dated 19.01.2024 clearly shows that he was present in the meeting and signed the proceeding register.



10. Further, contrary to the assertion made by learned counsel for the petitioner that respondent no. 9, Mangal Sahani has been elected as the 'Up-Mukhiya', both the State counsel, on instruction as also Mr. Ravi Ranjan who represent the State Election Commission (which is authorized body to announce the date for election of Up-Mukhiya) jointly submitted that no election has taken place till date and as such, there is no question of election of respondent no. 9, Mangal Sahani as the 'Up-Mukhiya'.

11. From the aforesaid facts it is clear that both in the writ petition and/or during submission, the petitioner as also his lawyer on the basis of false statements/submissions/assertions tried to procure an order. This Court safely holds that the petitioner had full knowledge about the special meeting, participated in it, put in his signature, the 'No Confidence Motion' was passed against him, knowing very well that on 12.01.2024, the special meeting followed by 'No Confidence Motion' has taken place, filed this writ petition claiming that without his knowledge, the members have elected a new 'Up-Mukhiya' Mangal Sahani on 12.01.2024.

12. In that circumstance, mere deprecation will not suffice. A cost has to be imposed in the matter. The writ petition



is frivolous and is accordingly dismissed with a cost of Rs. 10,000/- to be deposited with the Patna High Court Legal Services Committee within four weeks.

13. If the petitioner fails to deposit the amount within the aforesaid period, the same be realised in accordance with law.

(Rajiv Roy, J)

Adnan/-

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