

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.638 of 2024
In
Civil Writ Jurisdiction Case No.2845 of 2024

1. Dhirendra Mishra @ Dheerendra Mishra Son of Kedar Mishra Resident of village- Bansara, P.O. Pachadhi, P.S. Raiyam, District - Darbhanga.
2. Swatantra Kumar Jha Son of Arvind Kumar Jha Resident of village and P.O. Nawada, Benipur. P.S. Bahera, District - Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department. Government of Bihar, Patna
3. The District Magistrate, Darbhanga, District - Darbhanga, Bihar.
4. The Deputy Development Commissioner -cum- Chief Executive Officer, Zila Parishad, Darbhanga, District- Darbhanga
5. The District Panchayat Raj Officer-cum- Additional Chief Executive Officer, Zila Parishad, Darbhanga, District Darbhanga.
6. The State Election Commission through the State Election Commissioner, Bihar, Patna.
7. The Secretary, State Election Commission, Bihar, Patna.
8. Sita Devi Wife of Shambhu Paswan Resident of village and P.O. Bahadurpur, P.S. Bahadurpur, District - Darbhanga.
9. Aruna Kumari wife of Vinay Kumar Jha Resident of village and P.O. Kathra, Tardih, P.S. Manigachhi, District - Darbhanga.
10. Ranjana Kumari daughter of Sri Lal Bahadur Sah Resident of village- Karauni, P.O. Asthua, P.S. Singhwara, District - Darbhanga.
11. Hakikul Son of Nathuni Resident of village and P.O. Baghout, P.S. Manigachhi, District- Darbhanga.
12. Dinesh Ram Son of Fakira Ram Resident of village- Bishanpur, P.O. Narsara, P.S. Bishanpur, District - Darbhanga.
13. Amit Kumar Thakur son of Gopal Thakur Resident of village and P.O. Pohaddi, Benipur, P.S. Bahera, District - Darbhanga.
14. Navin Kumar Dubey son of Kailash Dubey Resident of village- Kalwara, P.O. Ratanpur, P.S. Jale, District - Darbhanga.
15. Rajendra Prasad son of Bhola Tanti Resident of village- Kheshraha, P.O. Bhinuda, P.S. Kusheshwarsthan, District-Darbhangha.
16. Mohammad Subhaan son of Md. Muslim Resident of village and P.O. Baghauni, P.S. Baheri, District - Darbhanga.
17. Anju Devi wife of Bipin Sahani Resident of village- Mushtafapur, P.O. Godhiyari, P.S. Bishunpur, District - Darbhanga.
18. Sujata Kumari daughter of Bhuneshwar Lal Das Resident of village Bajitpur, P.O. Milki Chak, P.S. Bahadurpur, District - Darbhanga.



19. Amarnath Sharma son of Udneshwar Sharma Resident of village and P.O. Havi Bhoaar, P.S. Bahera, District - Darbhanga.
20. Awadhesh Kumar son of Dineshwar Yadav Resident of village- Jagdishpur Chakka, P.O. Nehra, P.S. Manigachhi, District - Darbhanga.
21. Om Prakash Thakur son of Ram Jivan Thakur Resident of village- Hanuman Nagar, P.O. Kansi, Simri, P.S.- Singhwara, District - Darbhanga.
22. Dharmendra Kumar Jha son of Madhukant Jha Resident of village and P.O. Jaidev Patti, P.S. Ghanshyampur, District - Darbhanga.
23. Smt. Renu Devi @ Renu Kumari wife of Shiv Narayan Yadav Resident of village- Balbhadrapur Navtoliya, P.O. and P.S. Bahadurpur, District- Darbhanga, Bihar -846001
24. Farhat Haidar Son of Kurtulain Haidar Resident of village- Devra Banghauri, P.O. Bangauri, P.S. Jale, District - Darbhanga.
25. Samta Kumari daughter of Vijay Prasad Resident of village and P.O. Radhi, P.S. Jale, District -Darbhanga.
26. Seema Kumari wife of Sanjiv Raj Resident of village- Bhagwatipur, P.O. Bharwara, P.S. Singhwara, District - Darbhanga.
27. Dilip Kumar Yadav son of Matuk Lal Yadav Resident of village Phuldhua. P.O. Banauri, P.S. Simri, District - Darbhanga.
28. Nadara Hussain daughter of Nazmul Hussain Resident of village and P.O. Kumhauri, P.S. Simri, District- Darbhanga.
29. Shashi Rani wife of Nirbhay Kumar Resident of village- Hanuman Nagar, P.O. Khirma, P.S. Kewati, District - Darbhanga.
30. Farhaan Khatoon wife of Md. Mushtafa Resident of village and P.O. Chhatwan, P.S. Kewati, District - Darbhanga.
31. Vibha Devi wife of Nandkishore Yadav Resident of village and P.O. Saramohanpur, P.S. Sadar, District- Darbhanga.
32. Ruhi Praveen wife of Md. Jalaluddin Sahil Resident of village- Chaksaina, P.O. Loam P.S. Sadar, District - Darbhanga.
33. Rita Devi wife of Kamlesh Kumar Mandal Resident of village and P.O. Nimaithi, P.S. Baheri, District- Darbhanga.
34. Asha Devi wife of Rohit Sahu Resident of village- Balha, P.O. Naudega, P.S. Biraul, District - Darbhanga.
35. Lal Kumar Singh son of Jagdish Singh Resident of village and P.O. Kakodha, P.S. Sakatpur, Taridh, District - Darbhanga.
36. Sunita Yadav wife of Shambhu Yadav Resident of village- Kiratpur, P.O. Harsinghpur, P.S. Alinagar, District - Darbhanga.
37. Kulsum Begam wife of Kamrul Rayan Resident of village and P.O. Baghras, P.S. Kiratpur, District- Darbhanga.
38. Chhedi Sahu son of Ramvilas Sahu Resident of village- Palva, P.O. Nadiyami, Gaurabauram, P.S. Biraul, District - Darbhanga.
39. Ajay Kumar Yadav son of Babu Prasad Yadav Resident of village- Vishnupur Ghat, P.O. Dakshini Kasraur, P.S. Ghanshyampur, District - Darbhanga.



40. Guneshwar Thakur son of Budhan Thakur Resident of village- Shahpur, P.O. Jhajhra, P.S. Kusheshwarsthan, District - Darbhanga.
41. Poonam Mani Sharma wife of Ram Shankar Sharma Resident of village- Chhapki Parhi, P.O. Lakshmisagar, P.S. Sadar, District - Darbhanga.
42. Mushrat Fatma wife of Habbibullah Hasmi Resident of village- Kazibahera, P.O. Nagardih, P.S. Jale, District - Darbhanga.
43. Rinki Kumari wife of Sanjay Kumar Chaupaal Resident of village- Paanta, P.O. Sonki, P.S. Sadar, District - Darbhanga.
44. Asha Devi wife of Anjani Kumar Chaudhary Resident of village- Pirauli, P.O. Malhipatti, P.S. -A.P.M., District - Darbhanga.
45. Kajal Devi wife of Phoolbabu Lal Dev Resident of village- Manoratha, P.O. Hawasa, P.S. Ashok Paper, District - Darbhanga.
46. Sumitra Devi wife of Hari Paswan Resident of village- Basatpur, P.O. Ughra, P.S. Bahadurpur, District - Darbhanga.
47. Harimohan Yadav son of Mahesh Kant Yadav Resident of village- Kopi, P.O. Tirmohani, Sushari Turki, P.S. Baheri, District - Darbhanga.
48. Sulekha Devi Wife of Sitaram Manjhi Resident of village- Sonmadihuli, P.O. Morwara, P.S. Biraul, District - Darbhanga.
49. Lalit Narayan Paswan Son of Vishundev Paswan Resident of village- Kanokhar, P.O. Najra Mahmada, P.S. Manigachhi, District - Darbhanga.
50. Dhiraj Kumar Jha Son of Ram Narayan Jha Resident of village- Dath, P.O. Jayantipur, P.S. Ghanshyampur, District - Darbhanga.
51. Smt. Lalita Jha @ Lalita Kumari wife of Alok Kumar Jha Resident of village- Supoul, Tola Ramnagar, P.S. Biraul, District- Darbhanga, Bihar-847203.
52. Nand Kishore Jha Son of Prabodh Jha Resident of village- Shankarpur, P.O. Rashidpur, P.S. Bahera, District - Darbhanga.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 2845 of 2024

1. Smt. Lalita Jha @ Lalita Kumari Wife of Alok Kumar Jha, Resident of Village- Supoul, Tola Ramnagar, P.S.-Biraul, District- Darbhanga, Bihar-847203.
2. Nand Kishore Jha, son of Prabodh Jha, resident of village Shankarpur, P.O.- Rashidpur, P.S.- Bahera, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
3. The District Magistrate, Darbhanga, District Darbhanga, Bihar.



4. The Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, Darbhanga, District Darbhanga.
5. The District Panhchayat Raj Officer-cum-Additional Chief Executive Officer, Zila Parishad, Darbhanga, District- Darbhanga.
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8. Sita Devi, wife of Shambhu Paswan, resident of village and P.O.- Bahadurpur, P.S. Bahadurpur, District- Darbhanga.
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11. Hakikul, son of Nathuni, resident of village and P.O.- Baghout, P.S.- Manighacchi, District- Darbhanga
12. Dinesh Ram, son of Fakira Ram, resident of village - Bishanpur, P.O.- Narsara, P.S- Bishanpur, District- Darbhanga.
13. Amit Kumar Thakur, son of Gopal Thakur, resident of village and P.O.- Pohaddi, Benipur, P.S.-Bahera, District- Darbhanga.
14. Navin Kumar Dubey, son of Kailash Dubey, resident of village Kalwara, P.O.- Ratanpur, P.S- Jale, District- Darbhanga.
15. Rajendra Prasad, son of Bhola Tanti, resident of village Kheshraha, P.O.- Bhindua, P.S.- Kusheshwarsthan, District- Darbhanga.
16. Mohammad Subhaan, son of Md. Muslim, resident of village and P.O.- Baghauni, P.S.-Baheri, District- Darbhanga.
17. Anju Devi, wife of Bipin Sahani, resident of village Mushtafapur, P.O- Godhiyari, P.S.- Bishunpur, District- Darbhanga.
18. Sujata Kumari, Daughter of Bhuneshwar Lal Das, resident of village Bajitpur, P.O- Milki Chak, P.S.- Bahadurpur, District- Darbhanga.
19. Amarnath Sharma, son of Udneshwar Sharma, resident of village and P.O.- Havi Bhoaar Benipur, P.S.- Bahera, District- Darbhanga.
20. Awadhesh Kumar, son of Dineshwar Yadav, resident of village - Jagdishpur Chakka, P.O.-Nehra, P.S.- Manigachhi, District- Darbhanga.
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24. Farhat Haidar, son of Kurtulain Haidar, resident of village - Devra Banghauli, P.O.-Banghauli, P.S- Jale, District- Darbhanga.
25. Samta Kumari, Daughter of Vijay Prasad, resident of village and P.O- Radhi,



P.S.- Jale, District- Darbhanga.

26. Seema Kumari, wife of Sanjiv Raj, resident of village Bhagwatipur, P.O.-Bharwara, P.S.- Singhwara, District-Darbhangha.
27. Dilip Kumar Yadav, son of Matuk Lal Yadav, resident of village Phuldhua, P.O.- Banauli, P.S.- Simri, District- Darbhanga.
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32. Ruhi Praveen, wife of Md. Jalaluddin Sahil, resident of village Chaksaina, P.O.- Loaam, P.S.- Sadar, District- Darbhanga.
33. Rita Devi, wife of Kamlesh Kumar Mandal, resident of village and P.O.-Nimaithi, P.S.-Baheri, District- Darbhanga.
34. Asha Devi, wife of Rohit Sahu, resident of village - Balha, P.O.- Naudega, P.S.- Biraul, District- Darbhanga.
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36. Sunita Yadav, wife of Shambhu Yadav, resident of village Kiratpur, P.O.-Harsinghpur, P.S.- Alinagar, District Darbhanga.
37. Kulsum Begam, wife of Kamrul Rayan, resident of village and P.O.-Baghras, P.S.-Kiratpur, District- Darbhanga.
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43. Dharendra Mishra, son of Kedar Mishra, resident of village Bansara, P.O.-Pachadhi, P.S.- Raiya, District- Darbhanga.
44. Rinki Kumari, wife of Sanjay Kumar Chaupaal, resident of village Paanta, P.O.- Sonki, P.S.-Sadar, District- Darbhanga.
45. Asha Devi, wife of Anjani Kumar Chaudhary, resident of village Piprauli, P.O- Malhipatti, P.S.- A.P.M., District- Darbhanga.
46. Kajal Devi, wife of Phoolbabu Lal Dev, resident of village Manoratha, P.O.-



Hawasa, P.S.- Ashok Paper, District- Darbhanga.

- 47. Sumitra Devi, wife of Hari Paswan, resident of village Basatpur, P.O- Ughra, P.S. Bahadurpur, District- Darbhanga.
- 48. Harimohan Yadav, son of Mahesh Kant Yadav, resident of village Kopi, P.O.- Trimohani, Sushari Turki, P.S.- Baheri, District-Darbhangha.
- 49. Sulekha Devi, wife of Sitaram Manjhi, resident of village Sonmadihuli, P.O- Morwara, P.S.- Biraul, District- Darbhanga.
- 50. Swatantra Kumar Jha, son of Arvind Kumar Jha, resident of village and P.O.- Nawada, Benipur, P.S.- Bahera, District- Darbhanga.
- 51. Lalit Narayan Paswan, son of Vishnudev Paswan, resident of village Kanokhar, P.O.-Najra Mahamda, P.S.- Manigacchi, District-Darbhangha.
- 52. Dhiraj Kumar Jha, son of Ram Narayan Jha, resident of village Dath, P.O.- Jayantipur, P.S.- Ghanshyampur, District- Darbhanga.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 638 of 2024)

For the Appellant/s	:	Mr. S.B.K. Manglam, Advocate Mr. Awnish Kumar, Advocate
For the State	:	Mr. Ajay, GA-5
For the Zila Parishad	:	Mr. Vivek Prasad, Advocate
For SEC	:	Mr. Ravi Ranjan, Advocate Mr. Girish Pandey, Advocate
For Private Respondent	:	Mr. Y.V. Giri, Sr. Advocate Mr. Devashish Giri, Advocate

(In Civil Writ Jurisdiction Case No. 2845 of 2024)

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Devashish Giri, Advocate
For the State	:	Mr. A.B. Sinha, GA-8 Ms. Kalpana, AC to GA-8
For the Zila Parishad	:	Mr. Vivek Prasad, Advocate
For SEC	:	Mr. Girish Pandey, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-07-2024

The appeal is from the interim order in the writ petition, which stayed the special meeting convened on 15.02.2024 to consider the no-confidence motion against the Up-Pramukh of the Panchayat; the writ petitioner. In the writ



petition, the Up-Pramukh, who is the writ petitioner, challenged the convening of the special meeting to consider the no-confidence motion. When the appeal came before us, we called for the writ petition also since the disposal of the appeal would lead to the disposal of the writ petition itself.

2. The learned Single Judge in the impugned order in appeal, has referred to L.P.A. No.115 of 2024 which dealt with the no-confidence motion against the Adhyaksh of the Zila Parishad, Darbangha on 12.01.2024. The learned Single Judge stayed the special meeting convened to consider the no-confidence motion against the writ petitioner/Up-Adhyaksh only since the appeal was pending which related to the no-confidence motion moved and carried against the Adhyaksh of the very same Zila Parishad. The L.P.A. has been disposed of by judgment dated 22.02.2024. Therein, the contention raised was whether the requisition made on 03.01.2024 could be moved in the Council under Section 70(4)(ii) of the Bihar Panchayat Raj Act, 2006, which prohibited any no-confidence motion within 2 years from the date of election. It was found that Adhyaksh and Up-Adhyaskh were elected on 03.01.2022 and on 02.01.2024,



the two year period got expired. The no-confidence motion moved and carried against the Adhyaksh on 12.01.2024 was approved. However, since the Up-Adhyaksh was not in the country when the no-confidence motion was moved and had not appeared in the appeal also, the question of no-confidence motion against the Up-Adhyaksh was left open to be considered in a meeting scheduled, subject also to the decision in the writ petition. Admittedly, a special meeting was scheduled which has been stayed by the learned Single Judge. As of now, the objection with respect to the two year period having not elapsed does not survive.

3. Learned Senior Counsel Sri Y.V. Giri sought for permission to argue first since he represents the writ petitioner. Learned Senior Counsel would contend that the Up-Adhyaksh had never been entrusted with the duties of the Adhyaksh and hence, there is no reason to permit a no-confidence motion against the Up-Adhyaksh. Section 69(2) of the Act of 2006 is pointed out to claim that the role of the Up-Adhyaksh arise only in the absence of the Adhyaksh and Up-Adhyaksh only performs such duties as the Adhyaksh has delegated, in writing. It is also argued that there is no valid



ground in the no-confidence to un-seat the Up-Adhyaksh. Reliance is placed on the judgment of a Co-ordinate Bench in *Sindhu Devi and Others v. State of Bihar and Others* reported in *(2002) 1 PLJR 281*.

4. Sri S.B.K. Mangalam, learned Senior Counsel appearing for the respondents in the writ petition, who are the appellants in the appeal, submitted that Section 70 specifically permits the no-confidence against the Up-Adhyaksh and the delegation under Section 69(2) is not at all necessary. The decision cited, is argued to be in the context of the Bihar Panchayat Raj Act, 1993, which did not provide for any reason to be stated whereas Section 70(4)(iv) mandates that the reasons or charges on the basis of which no-confidence motion is moved should be clearly mentioned in the notice of the meeting.

5. As has been rightly pointed out by the learned Counsel for the respondents, no-confidence motion against the Up-Adhyaksh, as permitted by Section 70(4)(i) does not depend upon any delegation of powers or duties by the Adhyaksh to the Up-Adhyaksh or the assumption of charge of the Adhyaksh by the Up-Adhyaksh. The no-



confidence motion, has to be definitely considered in a special meeting convened for the said purpose, even if it is against the Up-Adhyaksh.

6. The decision in *Sindhu Devi (supra)* was in the circumstance of no-confidence motion moved, without indicating any ground to support the motion. Looking at the provision in the Act of 1993, a Division Bench of this Court interpreting the expression ‘an opportunity of being heard’ and ‘misconduct in the discharge of his duties’, held that it clearly indicates the reasons to be indicated in the motion itself. The motion can be moved only as a request with not less than 1/3 of the total number of members present, in which event within 15 days of such receipt, a special meeting was to be called for. The notice, it was held that, will need to indicate the object for which the meeting is proposed. Section 44(3) of the Act of 1993 was also noticed to emphasize that the provision required to ‘specify the object for which the meeting was called’. The dictum was insofar as indicating the object, to be not a mere mention of no-confidence motion, but it should be supported by the grounds on which such motion is placed before the Council.



7. As of now, under sub-clause (iv) of Section 70(4), reasons or charges have to be specified in the notice of the meeting. However, this does not mean that this Court can look into the grounds and hold on its objectivity, subjectivity or validity. It is for the Zila Parishad, the elected members of the Panchayat, sitting in the special meeting to consider the grounds on which no-confidence motion has been moved. Learned Counsel for the petitioner pointed out that one of the grounds is the approach made by the Up-Adhyaksh to the High Court. We are definite in our minds that availing a remedy provided under the Constitution would not be a ground to move a no-confidence motion. However, it has to be specifically noticed that there are other grounds on which we would not speak; on its subjectivity or validity, lest our observations influence the Zila Parishad members. We are clear in our minds that there cannot be any prohibition of the special meeting to be convened.

8. On the above reasoning, we set aside the interim order impugned in the appeal and allow the appeal. We also reject the writ petition and direct the special meeting to be convened on 29.07.2024. The continuation of the Up-



Adhyaksh shall depend upon the result of the special meeting. We make it clear that the Up-Adhyaksh shall not carry on any functions of the Office to which she has been elected or the Office of the Adhyaksh, till the special meeting is convened; which order we make only considering the delay that has been occasioned in placing the matter before the Council.

9. Ordered accordingly.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

sharun/-

AFR/NAFR	
CAV DATE	16.07.2024
Uploading Date	19.07.2024
Transmission Date	

