

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2883 of 2024

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Shamima Begam @ Shamina Begam W/o Rustam Ansari, R/o Village-Ayar,
P.S.-Agiaon Bazar, Dist-Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Additional Chief Secretary,
Department of Panchayat Raj Bihar at Patna.
2. The District Magistrate cum District Election Officer, Bhojpur at Ara.
3. The Subdivisional Officer, Piro, Bhojpur.
4. The District Panchayat Officer, Bhojpur at Ara.
5. The Block Development Officer cum Executive Officer, Piro Block, Bhojpur
at Ara.
6. The Block Panchayat Raj Officer, Piro, Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
For the Respondent/s : Mr. Government Pleader 14

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 15-02-2024 Heard the parties.

2. No pleading has been made in the writ petition with respect to the requisition by which charges were framed and a 'No Confidence Motion' was moved by some of the elected members of the Panchayat Samiti, namely, Piro, District-Bhojpur at Ara, against the petitioner. This Court finds that this is a deliberate step taken by the petitioner to not give correct information before this Court by suppressing vital facts.

3. At this stage, learned counsel appearing on behalf of the petitioner relies that the relief (s) as sought in the present



writ petition is covered by an order dated 06.02.2024 passed by this Court in CWJC No. 1845 of 2024.

4. This Court finds that in the said case, the requisition moved against the concerned Pramukh was brought on record, whereas, in the present case, in absence of any requisition and charges or any communication made by the Block Development Officer-cum-Executive Officer, Piro, Bhojpur at Ara, this Court is not inclined to interfere and to grant same relief.

5. Law is well settled by the Apex Court in the case of **Bharat Singh & Ors. Vs. State of Haryana & Ors. (AIR 1988 SC 2181)** in which the Apex Court *inter-alia* has held as follows:-

“13. As has been already noticed, although the point as to profiteering by the State was pleaded in the writ petitions before the High Court as an abstract point of law, there was no reference to any material in support thereof nor was the point argued at the hearing of the writ petitions. Before us also, no particulars and no facts have been given in the special leave petitions or in the writ petitions or in any affidavit, but the point has been sought to be substantiated at the time of hearing by referring to certain facts stated in the said application by HSIDC. In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the court will not entertain the point. In this context, it will not be out of place to point out



that in this regard there is a distinction between a pleading under the Code of Civil Procedure and a writ petition or a counter-affidavit. While in a pleading, that is, a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it. So, the point that has been raised before us by the appellants is not entertainable. But, in spite of that, we have entertained it to show that it is devoid of any merit.”

6. Learned counsel now informs that special meeting for ‘No Confidence Motion’ is proposed to be held today i.e. on 15.02.2024 at 11:00 A.M.

7. Petitioner may choose to either participate in the meeting or he may abstain from the meeting. Remedy under Article 226 is not for an indolent person, however, learned counsel proceeded to persuade this Court that this case may be heard along with CWJC No. 1845 of 2024.

8. The petitioner is at liberty to file fresh writ petition bringing on record well founded pleadings supported by documents.

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

(Purnendu Singh, J)

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