

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3409 of 2024

1. Shabir Alam @ Shabir Husain Son of Late Ajeej Ansari, Resident of village and P.O. - Bijai, P.S. Ghorahasan, District - East Champaran.
2. Suresh Yadav @ Suresh Prasad Yadav, son of Ramekbal Rai, Resident of village - Gokhula, P.O. Siswa, P.S. Banjariya, District - East Champaran.
3. Sadaf Khanam, Wife of Jafar Iqbal Khan, Resident of Village and P.O. Dariyapur, P.S. - Sangrampur, East Champaran.
4. Ambari Khatoon, wife of Amzad Khan, Resident of Village - Najradei, P.O. - Mansihgha, P.S. - Sugauli, District - East Champaran.
5. Anita Devi, wife of Munna Paswan, Resident of Village - Dilawarpur, Block - Kalyanpur, P.S. Keshariya, District - East Champaran.
6. Shahnaz Begam, wife of Sabir Ali, Resident of village - Shekhtoli Dipahi, P.O. Dipahi, P.S. Chiraiya, District - East Champaran.
7. Lalbabu Prasad, Son of Mahendra Rai, Resident of village - Nimuiya West, P.O. Nimoiya, P.S. Ghorasahan Bankatwa, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Gram Panchayat Raj, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Department of Gram Panchayat Raj, Government of Bihar, New Secretariat, Patna.
3. The Director, Panchayat Raj Department, Government of Bihar, Patna.
4. The District Magistrate, East Champaran at Motihari.
5. The District Magistrate-cum-District Election Officer, East Champaran at Motihari.
6. The Deputy Development Commissioner-cum-Chief Executive Officer, District Board/Zila Parishad, East Champaran at Motihari.
7. The Sub-Divisional Officer, Sadar, District - East Champaran at Motihari.
8. The Block Development Officer, Areraj, East Champaran at Motihari.
9. Mamta Rai, wife of Shashi Bhushan Rai, the Chairman District Board/Zila Parishad, East Champaran at Motihari.
10. Geeta Devi, Wife of Akhileshwar Yadav, the Deputy Chairman/Vice Chairman, District Board/Zila Parishad, East Champaran at Motihari.
11. Md. Tausifur Rehman, Son of Muzibur Rahman, Resident of Ward No. 15, Gram Post - Siswaniya, Banjaria, P.O. Motihari, District - East Champaran, Bihar - 845401.
12. Naseema Khatoon, son of Kamrodin Miya, Resident of Amodei Bishambharakpur, Anchal - Ramgarhwa, Ramgarhwa, District - East Champaran.
13. Nirmala Devi, Wife of Binod Kumar Gupta, Resident of Village - Dhekaha, Ward No. 07, Thana- Kesariya, P.O. Kesariya, District - East Champaran.



14. Sadre Alam, Son of Mir Ali Raja, Resident of village - Ganeshpur, Post - Rajpur, Kesariya, Rajpur, District - East Champaran, Bihar - 845432.
15. Sita Rani, Wife of Satya Prakash Ji, Resident of village - Godhwa, Post - Pataura, P.S. - Muffasil, Motihari, District - East Champaran.
16. Akbari Khatoon, Wife of Shamsul Doha, Resident of village- Madhuaha Brit, P.S. - Rajepur, Tetaria, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Niranjana Kumar, Advocate. Mr. Surya Pratap Kumar, Advocate. Mr. Subham Singh, Advocate.
For the State	:	Addl. Advocate General 7.
For the Zila Parishad	:	Mr. Sanjay Kumar, Advocate.
For Respondent no.9	:	Mr. S. B. K. Manglam, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 20-03-2024

Heard Mr. Niranjana Kumar, learned counsel along with
Mr. Surya Pratap Kumar and Mr. Subham Singh, learned counsel
appearing on behalf of the petitioners; learned AAG-7 for the State;
Mr. Sanjay Kumar, learned counsel for the Zila Parishad and Mr. S.
B. K. Manglam, learned counsel for the respondent no.9.

2. In paragraph no.1 of the writ petition, the petitioners
have prayed for relief(s), which are re-produced *inter alia* as
follows:-

(I) For issuance of a writ in the nature of
certiorari for quashing the proceeding dated 15.01.2024,
wherein the District Magistrate, East Champaran at
Motihari and Deputy Development Commissioner-cum-
Chief Executive Officer, Zila Parishad, East Champaran,
Motihari have illegally and arbitrarily closed the meeting
called for considering the motion of No Confidence
without even holding a discussion on the
requisition/charges of No Confidence Motion or any voting



on the same and holding that the incumbent Chairman and Vice-Chairman of District Board/Zila Parishad, East Champaran at Motihari continue to be in majority as only 15 members out of 57 elected members were present and minimum quorum is of (28+1) 29 members were required for voting on the motion of No Confidence in a very mechanical manner as the same is in complete violation of Section-70 and other relevant provisions of the Bihar Panchayat Raj Act, 2006 (herein referred as Act, 2006 and also in violation of laws laid down by the Hon'ble Patna High Court, Patna and also ignoring the submissions made by the members of the Zila Parishad with respect to majority of present and voting against No Confidence Motion, in a very erroneous manner.

(ii) For issuance of a writ in the nature of certiorari for quashing the Clause -8(XIII)(6) to Clause- 8 (XIII)(9) of the Letter No.30-149/2008-2535 of Bihar State Election Commission dated 16.09.2008 being in violation of Section 70 of the Act and the law laid down by this Hon'ble High Court.

(iii) Issuance of writ in the nature of mandamus directing the District Magistrate, East Champaran at Motihari and Deputy Development Commissioner-cum- Chief Executive Officer, Zila Parishad, East Champaran, Motihari to revive the proceeding dated 15.01.2024, which was illegally and arbitrarily been closed without any discussion or voting on the motion of No Confidence and hold the vote on the Motion of No Confidence amongst the 15 members present on 15.01.2024 and declare the result based on voting amongst the 15 of the members present.

(iv) Issuance of writ in the nature of mandamus directing the District Magistrate, East Champaran at Motihari and Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad,



East Champaran, Motihari to hold fresh meeting and hold a vote on motion of No Confidence Motion- amongst 15 members present on 15.01.2024 and hold discussion on the requisition dated NIL received on 04.01.2024 containing allegation against the Chairman and Vice-Chairman of District Board/Zila Parishad, East Champaran, Motihari issued by the absence members and accordingly declare the result.

(v) For issuance of writ in the nature of mandamus for directing and commanding the responsible respondent authorities to hold inoperative the proceeding dated 15.01.2024 during the pendency of this writ application.

(vi) For issuance of any other appropriate writ(s), order(s), direction(s) for which the writ petitioner would be found entitled under the facts and circumstances of this case.”

3. Learned Counsel appearing on behalf of the petitioners submitted that from the minutes recorded by the District Magistrate and Deputy Development Commissioner in Memo No.152 dated 16.01.2024, it appears that 15 elected members, who were present in the meeting dated 15.01.2024 were not allowed to vote in the special meeting of ‘No Confidence Motion’ in violation of Section 70 of the Bihar Panchayat Raj Act, 2006. The District Magistrate and Deputy Development Commissioner apparently were influenced by the Chairman and Vice-Chairman and seeks for interference of this Court.

4. Learned counsel further referring to paragraph nos.58 and 59 of the judgment of **Dharmsheela Kumari Vs.**



Hemant Kumar & Ors. case reported in **2021(3) PLJR 346** and the case of **Dr. Shah Faesal & Ors. Vs. Union of India & Anr.** reported in **2020 (4) SCC 1** and giving information that the same has been questioned by the Division Bench of this Court in LPA No.125 of 2024, so far, on the ratio of the said decision, observation and clarification made in paragraph nos. 58 and 58 of **Dharmsheela Kumari case (supra)** still holds good law for the purpose of deciding the cases, in which the elected members have been restrained from appearing and holding of the special meeting for voting against no confidence motion on the date fixed among the members present in the meeting of no confidence motion.

5. Learned counsel relying on Clause -8(XIII)(6) to Clause- 8 (XIII)(9) of the Letter No.30-149/2008-2535 dated 16.09.2008 of the Bihar State Election Commission, submitted that with respect to the manner in which voting is required is no more in existence and has already been withdrawn. In this regard, learned counsel has also relied on paragraph no.42 of the judgment passed by the Division Bench of this Court in case of **Dharmsheela Kumari (Supra)**. Learned counsel further submitted that even considering the fact that the District Magistrate had directed for holding of special meeting in view of non-existence of the circular of State Election Commission, the order contained in Memo



No.152 dated 16.01.2024 is vitiated in the eye of law to have been passed without jurisdiction and, accordingly, is fit to be set aside and quashed.

6. *Per contra*, learned counsel for the State has relied on the Division Bench judgment passed in **LPA No. 940 of 2008 (Sarita Kumari . Vs. the State of Bihar)** and has submitted that there is no infirmity in the action of the District Magistrate and Deputy Development Commissioner in closing the meeting called for considering the motion of No Confidence when only 15 out of 57 elected members, were present at the time of special meeting fixed on 15.01.2024, as the requirement under Section 70 of the Act, 2006 was not fulfilled and resultantly, the incumbent Chairman and Vice-Chairman of District Board/Zila Parishad East Champaran at Motihari were allowed to continue.

7. Heard the parties.

8. It is to be noted that in a recent development, the judgment passed in case of *Dharamsheela (Supra)* has been doubted the ratio that “No Confidence Motion” can be deemed to have been passed, if there is majority of the elected members present and participating in the meeting, when the “No Confidence Motion” is held, by a Division Bench of this Court vide order dated 19.02.2024 in L.P.A. No. 113 of 2020 considering an apparent



conflict with the another Division Bench of this Court in **L.P.A. No. 940 of 2008, (Sarita Kumar vs. the State of Bihar)** dated 20.08.2009, wherein, it has been held that “Majority” should be of persons directly elected in the council and has referred the same to be heard by the larger Bench of this Court.

9. In situations where a decision/judgment has been passed in ignorance of an earlier decision of coordinate bench, the judgment rendered earlier would continue to hold force and the subsequent judgments would become *per incuriam*. In so far as the the second instance is concerned, the Supreme Court, in plethora of judgments, has held that a coordinate bench or co-equal bench cannot give a decision contrary to or inconsistent with the law laid down by the coordinate bench. The rationale for such principle is that precedent law must be followed by all and deviation from it should only be on a procedure known to law. Further, judicial discipline demands that judicial propriety and judicial decorum must be followed in all circumstances. Therefore, coordinate bench should not embark upon the exercise of inquiring about the correctness of the law laid down by another coordinate bench.

10. The constitution bench of the Supreme Court, as far back in 1961, in the case of **Jaisri Sahu v. Rajdewan Dubey and Ors (1962) 2 SCR 558**, dealing with a similar issued has held:

“The better course would be for the Bench



hearing the case to refer the matter to a Full Bench in view of the conflicting authorities without taking upon itself to decide whether it should follow the one Bench decision or the other. We have no doubt that when such situations arise, the Bench hearing the case would refer the matter for the decision of a Full Court.”

11. However, in not following the settled law, Courts create a disharmony and disturb the principle of *stare decisis*. It has been noticed that despite law settled by the Supreme Court, in some of the cases, courts have taken a different approach. Instances can be found where the Courts generally consider the most recent judgment on the point to be correctly laying the law. However, such an approach is an erroneous approach in light of the Supreme Court judgment cited above.

12. Though there is no provision like Article 141 which specifically lays down the binding nature of the decisions of the High Courts, it is a well accepted legal position that a single judge of a High Court is ordinarily bound to accept as correct judgments of courts of co-ordinate jurisdiction and of the Division Benches and of the Full Benches of his court and of the Supreme Court. Equally well settled is the position that when a Division Bench of the High Court gives a decision on a question of law, it should generally be followed by a co-ordinate Bench in the subsequent case wants the earlier decision to be reconsidered, it should refer the question at issue to a larger Bench.



13. It is well settled that it is only the *ratio decidendi* that has a precedent value. As observed by the Supreme Court in ***S. P. Gupta v. President of India***, reported in (***AIR 1982 SC 149***) :

"It is elementary that what is binding on the court in a subsequent case is not the conclusion arrived at in a previous decision, but the ratio of that decision, for it is the ratio which binds as a precedent and not the conclusion." A case is only an authority for what it actually decides and not what may come to follow logically from it. Judgments of courts are not to be construed as statutes (see ***Amar Nath Om Parkash v. State of Punjab*** reported in ***AIR 1985 SC 218***)."

14. In the facts and circumstances, the action of the District Magistrate and Deputy Development Commissioner, relying upon Clause 8(XIII)(6) to Clause 8(XIII)(9) of letter no. 30-149/2008-2535 dated 16.09.2008 of Bihar State Election Commission has been questioned in the present writ petition on the ground that they had closed the meeting called for considering the 'No Confidence Motion' after holding that the total number of members present were less than the majority of elected members, in an arbitrary manner by holding that incumbent Chairman and Vice-Chairman continues to be in majority as only 15 persons out of 57 elected members were present.

15. The unjustified action of the District Magistrate, East Champaran at Motihari and Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, East Champaran, Motihari on 15.01.2024, by illegally and arbitrarily



closing the meeting called for considering the motion of No Confidence without even holding a discussion on the requisition/charges of No Confidence Motion or any voting on the same and holding that the incumbent Chairman and Vice-Chairman of District Board/Zila Parishad, East Champaran at Motihari continue to be in majority as only 15 members out of 57, is an attempt to disturb a level-playing field between candidates and calls for interference by this Court.

16. The Apex Court in the case of **Kavita Vs. State of U.P.** reported in **(2018) 10 SCC 569**, has *inter alia* held that the proceedings before the Collector is more in the nature of a summary proceeding, and he does not have the trappings of a court exercising jurisdiction on the basis of evidence adduced at a trial of a judicial proceeding.

17. The object and the reasons of Part IX are to lend status and dignity to Panchayati Raj Institutions and to impart certainty, continuity and strength to them. The Apex Court in the case of **Bhanumti etc. Vrs. State of Uttar Pradesh through its Principal Secretary and Others** , has in sum held that a vote of no-confidence against elected representative is direct check flowing from accountability. Paragraph nos.44, 45, 46, 47, 48, 49,53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 69, 70, 71, 72, 73 and 75, of the judg-



ment are reproduced hereinafter :

44. *The Panchayati Raj institutions structured under the said amendment are meant to initiate changes so that the rural feudal oligarchy lose their ascendancy in village affairs and the voiceless masses, who have been rather amorphous, may realise their growing strength. Unfortunately, effect of these changes by way of constitutional amendment has not been fully realised in the semi-feudal set-up of Indian politics in which still voice of reason is drowned in an uneven conflict with the mythology of individual infallibility and omniscience. Despite high ideals of constitutional philosophy, rationality in our polity is still subordinated to political exhibitionism, intellectual timidity and petty manipulation. The Seventy-third Amendment of the Constitution is addressed to remedy these evils.*

45. *The changes introduced by the Seventy-third Amendment of the Constitution have given Panchayati Raj institutions a constitutional status as a result of which it has become permanent in the Indian political system as a third Government.*

46. *On a careful reading of this amendment, it appears that under Article 243-B of the Constitution, it has been mandated that there shall be panchayat at the village, intermediate and district levels in accordance with the provisions of Part IX of the Constitution.*

47. *Article 243-C provides for composition of panchayat which contemplated the post of Chairperson.*

48. *Article 243-D provides for reservation of seats and Article 243-E provides for duration of panchayat. Article 243-F enumerates the grounds of disqualification of membership of the panchayat and Article 243-G prescribes the powers, authority and responsibilities of panchayat. There are several other provisions relating to powers of the panchayat to impose taxes and for constitution of Finance Commission in order to review financial position of the panchayat. The accounts of the panchayat are also to be audited as per constitutional mandate under Article 243-J. There are detailed provisions for elections of*



panchayat under Article 243-K. Article 243-O imposes the bar to interference by courts in electoral matters of the panchayat.

49. *In this connection particular reference may be made to the provision of Article 243-G of the Constitution which is set out below:*

“243-G. Powers, authority and responsibilities of panchayat.—Subject to the provisions of the Constitution, the legislature of a State may, by law, endow the panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to—

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.”

53. *Thus, the composition of the panchayat, its function, its election and various other aspects of its administration are now provided in great detail under the Constitution with provisions enabling the State Legislature to enact laws to implement the constitutional mandate. Thus, formation of panchayat and its functioning is now a vital part of the constitutional scheme under Part IX of the Constitution.*

54. *Obviously, such a system can only thrive on the confidence of the people, on those who comprise the system.*

55. *In the background of these provisions, learned counsel for the appellants argued that the provision of no-confidence, being not in Part IX of the Constitution is contrary to the constitutional scheme of things and would run contrary to the avowed purpose of the constitutional amendment which is meant to lend stability and dignity to Panchayati Raj institutions. It was further argued that reducing the period from “two years” to “one year” before a no-confidence motion can be brought, further unsettles the running of the panchayat. It was further urged that un-*



der the impugned amendment that such a no-confidence motion can be carried on the basis of a simple majority instead of two-thirds majority dilutes the concept of stability.

56. *This Court is not at all persuaded to accept this argument on various grounds discussed below.*

57. *A Constitution is not to give all details of the provisions contemplated under the scheme of amendment. In the said amendment, under various articles, like Articles 243-A, 243-C(1), (5), 243-D(4), 243-D(6), 243-F(1), (6), 243-G, 243-H, 243-I(2), 243-J, 243-K(2), (4) of the Constitution, the legislature of the State has been empowered to make law to implement the constitutional provisions.*

58. *Particularly Article 243-C(5), which provides for election of Chairperson, specially provides:*

243-C. Composition of panchayats.—***

(5) The Chairperson of—

(a) a panchayat at the village level shall be elected in such manner as the legislature of a State may, by law, provide, and

(b) a panchayat at the intermediate level or district level, shall be elected by, and from amongst, the elected members thereof.”

59. *Therefore, the argument that the provision of no-confidence motion against the Chairman, being not in the Constitution, cannot be provided in the statute, is wholly unacceptable when the Constitution specifically enables the State Legislature to provide the details of election of the Chairperson.*

60. *It may be mentioned that the statutory provision of no-confidence motion against the Chairperson is a pre-constitutional provision and was there in Section 15 of the 1961 Act.*

61. *In this context, Article 243-N of the Constitution in Part IX is relevant and set out below:*

“243-N. Continuance of existing laws and panchayats.—Notwithstanding anything in this Part, any provision of any law relating to panchayats in force in a State immediately before the commencement



of the Constitution (Seventy-second Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the legislature of that State.”

62. *It is clear that the provision for no-confidence motion against the Chairperson was never repealed by any competent legislature as being inconsistent with any of the provisions of Part IX. On the other hand by subsequent statutory provisions the said provision of no-confidence has been confirmed with some ancillary changes but the essence of the no-confidence provision was continued. This Court is clearly of the opinion that the provision of no-confidence is not inconsistent with Part IX of the Constitution.*

63. *The provision of Article 243-N of the Constitution makes it clear that if the panchayat laws in force in a State prior to constitutional amendment, contain provisions which are inconsistent with Part IX, two consequences will follow:*

(1) Those provisions will continue until amended or repealed by competent legislature or authority, and

(2) Those provisions will continue until one year from commencement of the Constitution amendment, if not repealed earlier.

64. *Immediately after the Constitution amendment by way of Part IX, came the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994. This was enacted on 22-4-1994 to give effect to the provisions of Part IX of the Constitution. But the pre-existing provision of no-confidence was not repealed. Rather it was confirmed with minor changes in subsequent Amendment Acts of 1998 being U.P. Act 20 of 1998 and*



which was further amended in the impugned Amendment Act of 2007 being U.P. Act 44 of 2007.

69. A Constitution which professes to be democratic and republican in character and which brings about a revolutionary change by 73rd Constitutional amendment by making detailed provision for democratic decentralization and self Government on the principle of grass root democracy cannot be interpreted to exclude the provision of no-confidence motion in the respect of the office of the Chairperson of the Panchayat just because of its silence on that aspect.

70. As noted above, the provision of no-confidence was a pre-Seventy-third Amendment statutory provision and that was continued even after the Seventy-third Amendment in keeping with mandate of Article 243-N. This continuance of the no-confidence provision, as noted above was not challenged by the appellants. This aspect has been noted by the High Court in the impugned judgment. The High Court noted:

The original Act of 1961 provides a block period of 12 months for initiation of no-confidence motion in reference to kshettra samiti/panchayat, which was amended in the year 1965 by U.P. Act 16 of 1965 and the block period was enhanced to 'two years' from '12 months'. Again in the year 1990 the block period was reduced as the words 'two years' were substituted by words 'one year' by U.P. Act 20 of 1990. In the year 1998 U.P. Act 20 of 1998 again amended Section 15 and the block period was again enhanced to 'two years'. In the year 2007 again by U.P. Act 44 of 2007 the term 'two years' was substituted by 'one year' by virtue of which the block period of 'two years' was reduced to 'one year'.

71. The amended provision for the required majority for no-confidence motion also has been noted in the impugned judgment of the High Court:

"The majority as provided in Section 15(11) of the original Act of 1961 for passing of no-confidence motion was 'more than half of the total number of members of Kshettra Samiti'.



In the year 1994 by U.P. Act 9 of 1994 the term 'member' in Section 15(11) was substituted by 'elected members' hence in 1994 also, the motion was to be carried through with the support of more than half of the total number of elected members of kshettra panchayat.

In the year 1998 the required majority was enhanced to 'two-third' from more than half as the words 'more than half' in Section 15(11) were substituted by the words 'not less than two-third' by U.P. Act 20 of 1998.

Lastly, in the year 2007 again the provision relating to the majority for moving no-confidence motion was amended by U.P. Act 44 of 2007 and the words 'not less than two-third' were substituted by the words 'more than half' in Section 15(11)."

72. The argument that as a result of the impugned amendment stability and dignity of the Panchayati Raj institutions has been undermined, is also not well founded. As a result of no-confidence motion the Chairperson of a panchayat loses his position as a Chairperson but he remains a member, and the continuance of panchayat as an institution is not affected in the least.

73. Going by the aforesaid tests, as we must, this Court does not find any lack of legislative competence on the part of the State Legislature in enacting the impugned Amendment Act.

75. It has already been pointed out that the object and the reasons of Part IX are to lend status and dignity to Panchayati Raj institutions and to impart certainty, continuity and strength to them."

18. It is settled principle of law that the High Court in exercise of its power of judicial review enshrined under Article 226 may look into the material on record to determine any illegality in the decision making process coupled with irrationality and pervers-



sity. In the decision reported in ***Jayrajbhai Jayantibhai Patel v. Anilbhai Jayantibhai Patel and others***, JT 2006 (12) SC 34 : 2006 (9) SCALE 147 : 2006 AIR SCW 4670, the Supreme Court while dealing with an Election matter, has held as under in paragraph 18:

“18. Having regard to it all, it is manifest that the power of judicial review may not be exercised unless the administrative decision is illogical or suffers from procedural impropriety or it shocks the conscience of the Court in the sense that it is in defiance of logic or moral standards but no standardised formula, universally applicable to all cases, can be evolved. *Each case has to be considered on its own facts, depending upon the authority that exercised the power, the source, the nature or scope of power and the indelible effects it generates in the operation of law or affects the individual or society.* Though judicial restraint, albeit self-recognised, is the order of the day, yet an administrative decision or action which is based on wholly irrelevant considerations or material; or excludes from consideration the relevant material; or it is so absurd that no reasonable person could have arrived at it on the given material, may be struck down. In other words, when a Court is satisfied that there is an abuse or misuse of power, and its jurisdiction is invoked, it is incumbent on the Court to intervene. It is nevertheless, trite that the scope of judicial review is limited to the deficiency in the decision-making process and not the decision.”

19. The Apex Court in the case of The Apex Court in the case of **Sarvepalli Ramaiah v. District Collector, Chittoor**, (2019) 4 SCC 500 has held as follows:-

“40. Administrative decisions are subject to



judicial review under Article 226 of the Constitution, only on grounds of perversity, patent illegality, irrationality, want of power to take the decision and procedural irregularity. Except on these grounds administrative decisions are not interfered with, in exercise of the extraordinary power of judicial review.

43. Judicial review under Article 226 is directed, not against the decision, but the decision-making process. Of course, a patent illegality and/or error apparent on the face of the decision, which goes to the root of the decision, may vitiate the decision-making process...”

20. The Apex Court recently has deliberated upon the limitations and exceptions on the powers of Court to interfere in matters pertaining to elections in paragraph no.37 of **Union Territory of Ladakh & Ors. Vs. Jammu and Kashmir National Conference and Anr.** reported in **2023 SCC OnLine SC 1140**, wherein following observation has been made :-

*“37. We would indicate that the restraint, self-imposed, by the Courts as a general principle, laid out in some detail in some of the decisions *supra*, in election matters to the extent that once a notification is issued and the election process starts, the Constitutional Courts, under normal circumstances are loath to interfere, is not a contentious issue. But where issues crop up, indicating unjust executive action or an attempt to disturb a level-playing field between candidates and/or political parties with no justifiable or intelligible basis, the Constitutional Courts are required, nay they are duty-bound, to step in. The reason that the Courts have usually maintained a hands-off approach is with the sole salutary objective of ensuring that the elections, which are a manifestation of the will of the people, are taken to their logical conclusion, without delay or dilution thereof.....”*

(emphasis supplied)

21. In the facts and circumstances of the case, the action of the District Magistrate and Deputy Development Commissioner,



relying upon Clause -8(XIII)(6) to Clause- 8 (XIII)(9) of the Letter No.30-149/2008-2535 dated 16.09.2008 of the Bihar State Election Commission, which is no more in existence is held to be having passed without jurisdiction and consequential action of not holding of special meeting of No Confidence Motion on 15.01.2024 is being without authority of law ultimately rendering minutes drawn in that connection by the District Magistrate and Deputy Development Commissioner on 15.01.2024 is also held to be without authority of law in view of the observation made by the Apex Court in Union territory of Ladakh & Ors. (*supra*). The manner in which District Magistrate and Deputy Development Commissioner have tried to impede the lawful procedure is only indicative of unjust executive action.

22. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.04.2024
Transmission Date	NA

