

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4215 of 2024

Dayashankar Kumar Son of Ramdev Singh, resident of Village-Dihra, P.S. Chandi, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The District Magistrate cum District Election Officer (Panchayat), District-Nalanda.
3. The District Panchayat Raj Officer, District-Nalanda.
4. The Sub Divisional Officer, Sub-Division-Hilsa, District-Nalanda.
5. The Block Development Officer cum Executive Officer (Panchayat Samiti), Block-Chandi, District-Nalanda.
6. The State Election Commission Bihar, Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
7. The Officer on Special Duty, the State Election Commission, Bihar, Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
8. Nisha Kumari Wif eof Shishupal Kumar, through BDO Chandi.
9. Kiran Devi, Wife of not known, through BDO Chandi.
10. Pushpa Devi, wife of not known, through BDO Chandi.
11. Anju Devi, wife of not known, through BDO Chandi.
12. Pinku Devi, wife of not known, through BDO Chandi.
13. Nutan Kumari, Wife of not known, through BDO Chandi.
14. Mira Devi, Wife of not known, through BDO Chandi.
15. Bunni Devi, wife of not known, through BDO Chandi.
16. Rashmi Kumari, wife of not known, through BDO Chandi.
17. Manti Devi, wife of not known, through BDO Chandi.
18. Gita Devi, Wife of not known, through BDO Chandi.
19. Pinki Devi, Wife of not known, through BDO Chandi.
20. Rajnandan Paswan, son of not known, through BDO Chandi.
21. Kamlesh Kumar, son of not known, through BDO Chandi.
22. Kumar Sanu, son of not known through BDO Chandi.
23. Anil Kumar, son of not known, through BDO Chandi.
24. Gautam Kumar, son of not known, through BDO Chandi.
25. Manish Kumar, son of not known, through BDO Chandi.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 6073 of 2024



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Pinku Devi Wife of Naresh Paswan Resident of Devi Asthan, Baikathpur,
P.S.- Chandi, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar Through Additional Chief Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum- District Election Officer (Panchayat), Nalanda
3. The District Panchayat Raj Officer, Nalanda at Biharsharif, District Nalanda at Biharsharif.
4. The Sub Divisional Officer, Hilsa, District- Nalanda.
5. The Block Development Officer, Chandi-cum- Executive Officer (Panchayat Samiti), Chandi, Nalanda.
6. The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner.
7. The Secretary, The State Election Commission (Panchayat), Sone Bhawan, Birchand Patel Path, Patna.
8. Nisha Kumari, Wife of Shishupal Kumar, Resident of Village- Sumaka, P.O.- Amrapura, P.S.- Chandi, District- Nalanda at Biharsharif.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 4215 of 2024)

For the Petitioner/s : Mr. Akshansh Ankit, Adv.

For the Respondent/s : Mr. Standing Counsel 11

(In Civil Writ Jurisdiction Case No. 6073 of 2024)

For the Petitioner/s : Mr. Prem Kumar Paswan, Adv.

For the Respondent/s : Mr. Government Advocate (8)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

5 19-08-2024

Heard the parties.

2. The present writ petition (CWJC No. 4215 of 2024)

has been preferred for the following relief(s):

(a) to direct the Respondent Authorities to hold fresh election for the posts of Pramukh and Up- pramukh in the Panchayat Samiti without any further delay in view of the fact that the posts have remained pending for



considerable period of time after removal of the previous of Pramukh and Up-pramukh by passing of no confidence motion;

b) to pass any other order/orders in shape of a consequential relief to which the Petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand.

3. Both the writ petitions relate to the same Chandi Block, Nalanda and as such the facts of the CWJC No. 4215 of 2024 (Dayashankar Kumar) has been taken up for consideration.

4. The matter relates to Panchayat Samiti, Chandi in the District of Nalanda (Biharsharif), respondent nos. 8 and 9 were serving as its 'Pramukh' and 'Up-Pramukh' respectively.

5. On 03.01.2024, a requisition was made for conducting special meeting to discuss the charges against them as also the 'No Confidence Motion'. Subsequently, the date was fixed on 06.01.2024 and the special meeting date was given as 16.01.2024.

6. On that day, out of the 19 member's strength of the Panchayat Samiti, 12 participated, charges were discussed and thereafter, the motion was put to vote. Out of 12 members who were present, all voted for the motion against the 'Pramukh' while against the 'Up-Pramukh', 11 voted for the motion while one against it. Accordingly, the motion was declared passed against



both of them.

7. The ex-Pramukh, Nisha Kumari thereafter approached this Court by way of writ petition (**CWJC No. 2328 of 2024**) and the registration date shows that it was registered on 07.02.2024. Meanwhile, election was to take place for the vacant post on 15.02.2024.

8. Learned counsel for the petitioner in the present case submits that in the said writ petition, wrong facts were placed before the writ Court on 13.02.2024, when it was taken up and the Court was made to believe that the 'No Confidence Motion date has been fixed as 15.02.2024.

9. In that background, the writ petition was disposed of by the Coordinate Bench and the short order read as follows:

“Heard Mr. Awnish Kumar, learned counsel appearing on behalf of the petitioner and Mr. Raj Kishore Roy, GP No.18 for the respondents/state.

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner seeks to avail remedy under Section 157 of the Bihar Panchayat Raj Act, 2006 (hereinafter to be referred as the 'Act') before the District Magistrate, Nalanda at Biharsharif, for the relief(s) as prayed for in the present writ petition.

3. Considering the limited relief(s) as sought for by the petitioners, the District



Magistrate, Nalanda at Bihar Sharif, is directed to call for the records relating to the Panchayat Samiti of concerned Block and fix a date within two days after communication of this order for the attendance of Pramukh, Up-pramukh and all the members of the Panchayat Samiti and seek their signature in his own presence and thereafter, he may fix a date for providing opportunity of hearing to the affected parties and decide the matter considering the charges as contained in the requisition. If he finds that there is violation of manner, as prescribed under Section 44 of the Bihar Panchayat Raj Act, 2006 and same requires interference in any manner with respect to calling of 'No Confidence Motion', which has been fixed on 15.02.2024, the District Magistrate after providing opportunity of hearing may pass a speaking order strictly in accordance with law.

4. The special meeting dated 15.02.2024 shall lose its operation till final decision is taken by the District Magistrate.

5. As the order has been passed in the open Court, learned counsel for the State has ensured that he will immediately communicate the District Magistrate, Nalanda at Bihar Sharif, by both the means, fax, as well as, by telephonic communication, even before the order is pronounced.

6. Accordingly, the present writ



petition is disposed of.”

10. Learned counsel for the petitioner submits that it was in the aforesaid circumstance that the election that was to take place on 15.02.2024 has still not been held as in a concluded meeting, the District Magistrate, Nalanda at Biharsharif was unable to move forward under **Section 157 of the Bihar Panchayat Raj Act, 2006** (henceforth for short ‘the Act’).

11. This case was taken up by the same Coordinate Bench on 18.03.2024 and direction was given to the petitioner to implead the members as party respondents and furnish copies of writ petition to the Block Development Officer-cum-Executive Officer, Chandi so that each and every elected member is served copies and allowed an opportunity to defend his/her case.

12. This Court can only deprecate the role of the petitioner inasmuch as despite having a case against both the ex-Pramukh and Up-Pramukh, they were not made party respondents and it was only after having been sounded by the Coordinate Bench that the elected members were made party respondents and copies were made available to them through the Block Development Officer, Chandi.

13. As per the supplementary counter affidavit of respondent No. 5, duly signed by the BDO, Chandi (Nalanda) on 30.04.2024, the elected members were served with the copies of



the writ petition which include the respondent No. 8, Nisha Kumar and respondent No. 9, Kiran Devi.

14. There is no appearance on behalf of either the respondent Nos. 8 and/or the respondent no. 9 and after having gone through the supplementary counter affidavit, this Court is convinced that the copies of the writ petition were served upon them but they chose not to defend the case.

15. Learned State Counsel submits that since the 'No Confidence Motion' has already been passed, wrong facts were placed by the learned counsel for the petitioner in the **Nisha Kumari** (supra) case, accordingly, direction was given to the District Magistrate to act under Section 157 of 'the Act' and this has resulted into the stalemate inasmuch as the election has not taken place for the last six months.

16. Learned counsel for the State Election Commission submits that they had already taken note of the fact that the date was fixed but due to the order passed in **Nisha Kumari** (supra) case, the same is pending.

17. Having gone through the facts of the case as also the materials on record and having heard the parties at length, this Court is convinced that the learned counsel in **Nisha Kumari** (supra) case wrongly placed the facts before the Coordinate Bench and made it to believe that the 15.02.2024 is the date for taking up



‘No Confidence Motion’. Instead, on that day, the election was to take place as the ‘No Confidence Motion’ already stood passed on 16.01.2024 itself when both the respondent nos. 8 and 9 were removed from their respective posts.

18. In that background, this Court is of the opinion that the people of the Chandi Block cannot be made to suffer even for a moment as the post has remained vacant for six long months. The State Election Commission shall be taking up immediate steps in accordance with law by fixing the date and directing the State respondents to conduct the election in free and fair manner so that both the posts of ‘Pramukh’ and ‘Up-Pramukh’ are filled up at an earliest.

19. The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

Vijay Singh/-

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