

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4425 of 2024

Ravindra Kumar S/o Ramdeo Saw Resident of Village- PratapPur, P.S.- Halsi,
District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
4. The Director, Panchayati Raj Department, Government of Bihar, Patna.
5. The State Election Commission, Bihar, Patna through its Officer on Special Duty.
6. The Officer-on-Special Duty, State Election Commission, Bihar, Patna.
7. The District Magistrate-Cum-District Election Officer, (Panchayat), Lakhisarai.
8. The District Panchayat Raj Officer, Lakhisarai.
9. The Block Panchayat Raj Officer, Halsi Block, Lakhisarai.
10. Hasho Manji S/o Lakshman Manjhi Resident of Village- Babuara, P.O.- Pratappur, P.S.- Halsi, District- Lakhisarai.
11. Md. Shoeb S/o Md. Idrish Resident of Village- Babuara, P.O.- Pratappur, P.S.- Halsi, District- Lakhisarai.
12. Kanchan Devi W/o Bharat Yadav Resident of Village- Pratappur, P.O.- Pratappur, P.S.- Halsi, District- Lakhisarai.
13. Pankaj Kumar S/o Krishnadev Mahato Resident of Village- Pratappur, P.S.- Halsi, District- Lakhisarai.
14. Hira Mochi S/o Saryog Ravidas Resident of Village- Pratappur, P.S.- Halsi, District- Lakhisarai.
15. Rinku Devi W/o Vilas Paswan Resident of Village- Pratappur, P.S.- Halsi, District- Lakhisarai.
16. Sobha Devi Raju Bind Resident of Village- Karunmachak, P.O.- Pratappur, P.S.- Halsi, District- Lakhisarai.
17. Sangeeta Devi W/o Sudhi Bind Resident of Village- Karunmachak, P.O.- Pratappur, P.S.- Halsi, District- Lakhisarai.
18. Sita Devi W/o Sanjay Yadav Resident of Village- Khuryari, P.O.- Pratappur, P.S.- Halsi, District- Lakhisarai.
19. Karni Devi W/o Arvind Ram Resident of Village- Khuryari, P.O.- Pratappur, P.S.- Halsi, District- Lakhisarai.
20. Suchit Kumar Panday S/o Nandkishor Panday Resident of Village- Khuryari, P.O.- Pratappur, P.S.- Halsi, District- Lakhisarai.
21. Girish Mandal S/o Prasadi Mandal Resident of Village- Kumaidha, P.O.-



Pratappur, P.S.- Halsi, District- Lakhisarai.

22. Dileep Paswan S/o Sakichan Paswan Resident of Village- Kumaidha, P.O.-
Pratappur, P.S.- Halsi, District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Vijay Kumar, Advocate Mr. Rajnish Kumar, Advocate
For the State	:	Mr. Arvind Kumar, AC to GA-9
For the SEC	:	Mr. Ravi Ranjan, Advocate Mr. Girish Pandey, Advocate
For the Resp. No.18	:	Mr. Anirudh Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 06-08-2024 Heard Mr. Suraj Samdarshi, learned counsel for the

petitioner, Mr. Arvind Kumar, learned AC to GA-9 for the

State, Mr. Ravi Ranjan representing the State Election

Commission and Mr. Anirudh Kumar Sinha for the respondent

no.18.

2. The present writ petition has been been
preferred for the grant of following reliefs:-

*“(i) For quashing the proceeding dated
25.01.2024 convened in Office of
Grampanchayat Raj, Pratappur for
discussing "No Confidence Motion" brought
against the petitioner, who is the Up-
Mukhiya of Gram Panchayat Raj, Pratappur,
which has been held/convened de-hors the
Rules prescribed under Section 18(4)(ii) of
Bihar Panchayat Raj, Act,2006.*



(ii) For further to hold that since the petitioner has been removed in a special meeting held on 25.01.2024 which is tainted with fraud, as such the petitioner be allowed to function/discharge his duty as usual.

(iii) For further to stay the election during pendency of this writ application scheduled to be held on 13.03.2024 in pursuance of order passed by the respondent Officer-on-Special Duty of State Election Commission, Bihar, Patna vide his letter no. 810 dated 23.02.2024.”

3. On 09.07.2021, the following order was passed, considering the glaring irregularity/illegality that was committed by the respondent no.9, Block Panchayat Raj Officer, Halsi, Lakhisarai, inasmuch as despite recording in the minutes of the proceeding that 11 votes have been cast against the ‘No-confidence Motion’, he declared that the petitioner stands removed from the post of ‘Up-Mukhiya’, on dated 25.01.2024 (Annexure P/2 to this writ petition).

4. The order dated 09.07.2024 is incorporated hereinbelow:-

“Heard Mr. Suraj Samdarshi, learned counsel for the petitioner, Mr. Arvind Kumar,



learned A.C. to G.A. 9 for the State and Mr. Girish Pandey representing the State Election Commission.

2. The petitioner who was “Up-Mukhiya” of Gram Panchayat, Pratappur, Halsi, Lakhisarai was removed on 25.01.2024 alleged that the process was tainted inasmuch as 11 votes were polled against the “No confidence Motion” while 4 votes were polled for it. However, despite an objection preferred on the same day and recording the aforesaid facts, he was illegally removed from the post.

3. This Court had gone through the proceedings and found that though it has been recorded that 4 votes were polled in favour of the “No Confidence Motion” while 11 went against it. Still, he was removed. The contention of the State on the earlier hearing was that inadvertently, in the proceeding though 11 votes were polled in favour of the “No Confidence Motion”, wrongly it was recorded that it was against the “No Confidence Motion”.

4. In that background on 01.07.2024, this Court directed the District Panchayat Raj Officer, Lakhisarai (respondent no. 8) to present before this Court, the votes that was



polled on 25.01.2024.

5. Pursuant thereto, the State counsel has provided the sealed cover with the forwarding letter of the Block Development Officer, Halsi vide letter No. 896 dated 06.07.2024.

6. Upon perusal of the votes, in the presence of Mr. Suraj Samdarshi, learned counsel for the petitioner, Mr. Arvind Kumar, learned Assistant counsel for the State and Mr. Girish Pandey, learned counsel for the State Election Commission, this Court finds that actually 11 votes were polled against the “No Confidence Motion” while 4 votes polled in favour of it. Thus, the proceedings rightly recorded it. However, thereafter it was recorded that the petitioner cease to be “Up-Mukhiya”.

7. In the aforesaid background, this Court would like to know from the respondents as to under what circumstances, it was recorded that the petitioner is no longer an “Up-Mukhiya”.

8. As per the counter affidavit of the respondent nos. 7 to 9, Smt. Sita Devi (respondent no. 18) has now been elected as new “Up-Mukhiya” and the memo No. 321 dated 13.03.2024 issued by the Block



Development Officer, Halsi, Lakhisarai endorses the said point (Annexure-X to the petition).

9. From the aforesaid facts, it is clear that the petitioner has been wrongly removed from the post he was holding.

10. Earlier the notices were issued to all the respondents still there is no appearance. However, before a decision is taken, it would be appropriate that the new “Up-Mukhiya” is heard.

11. Issue notice to the respondent no. 18, Smt. Sita Devi (now the elected “Up-Mukhiya”) through both processes i.e. ordinary as well as registered cover with A/D for which requisites etc. must be filed within a period of two weeks from today failing which the application shall stand rejected without further reference to the Bench.

12. In case, the order passed is not complied and the matter accordingly stands dismissed, subsequently, the same be posted under the heading ‘To be Mentioned’ along with ‘Tied Up’ matters before the Bench on the ‘TIED UP’ day.

13. Let the respondent No. 7, the District Magistrate, Lakhisarai file a counter affidavit bringing on record the steps he intends to



take as it is pursuant to his office letter No. 302 dated 12.02.2024 addressed to the State Election Commission, Bihar, Patna that the further process was initiated and new "Up-Mukhiya" was elected. This despite the fact that the elected Mukhiya had immediately brought the attention of the concerned respondents including the District Magistrate, Lakhisarai that despite the votes having been polled against "No Confidence Motion", it has been recorded as being passed.

14. Let the State Election Commission, respondent no.5 also file a reply in the matter.

15. As prayed for, list this case after four weeks.

16. The votes that has come in the sealed cover by forwarding letter No. 896 dated 06.07.2024 has been sealed again and handed over to learned G.A. 9, which shall be kept in his office and will be presented on the next date of hearing.

17. The counter affidavit of the District Magistrate, Lakhisarai must incorporate the enquiry that has been conducted on his part and the conclusion.

18. Though the notice has been issued to the respondent no. 18, Smt. Sita Devi, the District



Magistrate, Lakhisarai shall also ensure that she is communicated about the present order so that her appearance is marked on the next date of hearing.

19. Let a copy of this order be sent to the District Magistrate, Lakhisarai for the needful.”

5. It is to be noted here that the election to the vacant post took place following the direction issued by the State Election Commission, Bihar vide memo no. 810 dated 23.02.2024 to the District Magistrate, Lakhisarai to fill the post on 13.03.2024.

6. Subsequently, IA no.1 of 2024 was preferred challenging the said direction and it has been informed that subsequently, respondent no.18, Sita Devi was elected as the ‘Up-Mukhiya’ on the post which was declared vacant after removal of the petitioner illegally.

7. Respondent no.18 has appeared after the notices issued upon her as also the direction given to the District Magistrate, Lakhisarai to ensure that she receives a copy of the notice and as per the report, the District Magistrate, Lakhisarai ensured the same on 25.07.2024. She is now represented by learned counsel, Mr. Sinha.



8. The sealed packet containing the votes that were cast was again re-opened and beside the Court and other counsels who had already witnessed the votes cast, learned counsel for the respondent no.18, Mr. Anirudh Kumar Sinha was also shown all the votes and he confirmed that 11 votes were polled against the motion.

9. This shows that despite the elected members voted against the motion, the petitioner despite enjoying the majority of the house was thrown out from the post on 25.01.2024. It is surprising that on the same day, the 'Mukhiya' had complained before the respondent authorities including the respondent no.7, the District Magistrate, Lakhisarai all of whom chose to look the other way.

10. Learned counsel for the respondent no.18 though tried to impress upon the Court that most of the elected members are illiterate, the same cannot be accepted. Literate or illiterate, they cast vote and the decision taken by the elected members cannot be demeaned on the ground that most of them are illiterate. Thus, a motion was put to vote after deliberation in the special meeting and 11



votes came to the polled against the motion. The votes are before this Court and everyone including the learned counsel for the respondent no.18 have certified this fact.

11. Earlier a counter affidavit on behalf of the respondents including the District Magistrate, Lakhisarai was filed and they had justified the removal of the petitioner. However, pursuant to the last order passed by this Court on 09.07.2024, though no counter affidavit has been filed, office letter no. 576 dated 05.08.2024 has been provided by the District Magistrate, Lakhisarai to the learned Government Advocate no.9 containing the decision taken by his office on 02.08.2024 by which an inquiry committee has been constituted.

12. The entire facts have been detailed out in the earlier paragraphs on how illegality has been committed by the respondents against the petitioner.

13. In the aforesaid background, this Court deems it fit and proper to take the clock back to 25.01.2024 when the special meeting was convened to discuss the 'No-confidence Motion' against the petitioner, an 'Up-Mukhiya' of the Halsi Block in the district of Lakhisarai and 11 votes



were cast against the ‘No-confidence Motion’ while four votes were cast in favour of the motion. This fact also stands recorded in the proceeding.

14. The decision dated 25.01.2024 (Annexure P/2 to the writ petition) by the respondent no.9 is set aside. Consequently, all the orders/decisions/communication taken in furtherance of the decision dated 25.01.2024 also goes.

15. The respondent no.7, the District Magistrate, Lakhisarai is directed to ensure that the petitioner occupies the post of ‘Up-Mukhiya’, Halsi Block, Lakhisarai, forthwith. He is free to take appropriate action against the erring officials after the inquiry committee submits its report.

16. The writ petition is allowed. The State Counsel is directed to return the votes (*which has again been sealed in the envelope by the Officers of the Court*) to the office of the District Magistrate, Lakhisarai.

(Rajiv Roy, J)

vinayak/-

U			
---	--	--	--

