

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6001 of 2024

1. Ejaj Ansari son of Kitab Miya, Resident of Village-Baghi Baghi Baghambarpur, P.O.-Baghi Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
2. Rama Choudhary, Son of Khakhan Choudhary, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.
3. The District Magistrate, West Champaran.
4. The District Panchayati Raj Officer, West Champaran.
5. The Block Panchayati Raj Officer, Bairiya, West Champaran.
6. The Panchayat Secretary, Gram Panchayat Raj Baghi Baghambarpur, Block Bairiya, West Champaran.
7. Anil Kumar, son of Prabhu Sah, Mukhiya, Gram Panchayat Raj Baghi Baghambarpur, Bairiya, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
8. Mankeshwar Sah, son of Late Jamuna Sah, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 01, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
9. Soni Devi, wife of Anil Paswan, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 02, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
10. Umravati Devi, Wife of Surendra Prasad, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 03, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
11. Sita Devi, Wife of Ajay Rai, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 04, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
12. Umesh Ram, son of Dukhi Ram, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 05, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
13. Jehrul Nesha, Wife of Manjur Alam, Member of Gram Panchayat Raj Baghi

- Baghambarpur, Ward No. 06, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
14. Matarani Devi, Wife of Ramanand Mahto, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 07, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
15. Madan Ram, son of Bhikham Mahto, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 08, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
16. Radhika Devi, Wife of Nand Kishor Prasad, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 09, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
17. Prabhawati Devi, wife of Jatashankar Prasad, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 10, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
18. Pramod Hajra, son of Hiranman Hajra, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 11, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.
19. Rajesh Paswan, son of Late Babulal Paswan, Member of Gram Panchayat Raj Baghi Baghambarpur, Ward No. 14, West Champaran, Resident of Village-Baghi Baghambarpur, P.O.-Baghi Baghambarpur, P.S.-Sri Nagar Pujaha, District-West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Santosh Bharti
For the Respondent/s : Mr. Standing Counsel (24)

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 09-09-2024 Heard the parties.

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

(i) To issue writ of certiorari for quashing the notice dated 02.2024 Issued under the signature of respondent no. 6 by

which he call special meeting of the Gram Panchayat Raj Baghi Baghambarpur, Bairiya, West Champaran for discussion on No- confidence against the Up Mukhiya (respondent no.-10) of Gram Panchayat Raj Baghi Baghambarpur contrary to the provisions of Rule 6 of the Bihar Panchayat Raj Institution (Conduct of Business) Rules 2015.

(ii) To issue writ of certiorari for quashing/ Setting aside the decision, if any, passed in the special meeting dated 20.02.2024 held for discussion on No- confidence against the Up Mukhiya (respondent no.-10) of Gram Panchayat Raj Baghi Baghambarpur, Bairiya, West Champaran because the same was not written down in front of members of the Gram Panchayat Raj Baghi Baghambarpur, Bairiya, West Champaran

(iii). To issue a direction to the respondent authorities Respondent no. 1 to 6

to issue a fresh notice for special meeting for discussion of No confidence motion against Up Mukhiya (respondent no. 10) as per requisition dated 16.02.2024.

(iv). To issue other appropriate writ/ writs, order/ orders, direction/ directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

3. The matter relates to *Gram Panchayat Bagahi Baghambarpur, Bairiya*, in the district of *West Champaran* and in pursuant to the requisition made by the elected members, eight out of fifteen members participated in the special meeting and seven votes were polled for the no confidence motion while one was declared invalid.

4. However, respondent No. 7, Anil Kumar, the *Mukhiya* of the said *Gram Panchayat* declared the proceeding to have been failed and the 'Up-Mukhiya' shall continue to hold the post.

5. In that background, taking into account the **Dharamsheela Kumari vs Hemant Kumar and Ors**, judgment passed by the Division Bench of Patna High Court, **reported in 2021 (3) PLJR 346**, the District Magistrate, *West*

Champaran, Bettiah was directed to answer to three questions incorporated in paragraph 8, which read as follows:-

“(i) whether he has any knowledge of the letter memo no. 449 dated 08.02.2024 which was addressed to all the District Magistrates of the State;

(ii) whether it has any knowledge of the order passed by the Court in Dharamsheela Kumari (Supra) or not;

(iii) whether in that background, the decision taken by the Mukhiya which is part of the proceeding and now challenged and in the writ petition is fit to be set aside or not?”

6. The answer has come by way of Counter Affidavit in paragraph 4 and read as follows:-

Question	Answer
(i) Whether he has any knowledge of the letter memo NO. 449 dated 08.02.2024 which was addressed to all the District Magistrates of the State;	Yes, the letter was served in the office of undersigned on 08.02.2024.

(ii) whether it has any knowledge of the order passed by the Court in Dharamsheela Kumari (supra) or not;	Yes, the order passed by the Court in Dharamsheela Kumari (supra) has come up in the knowledge of the District Magistrate on 16.02.24, when the Hon’ble Justice of the High Court of Judicature at Patna has referred the aforesaid case in the order dated 16.02.2024 passed in CWJC No. 3015/2024, Rakesh Kumar Verma @ Rakesh Kumar Shrivastawa vs. the State of Bihar and Ors., concerned with this district.
(iii) whether in that background, the decision taken by the Mukhiya which is part of the proceeding and now challenged and in the writ petition is fit to be set aside or not?	Yes, in that background, the decision taken by the ‘Mukhiya’ which is part of the proceeding and now challenged in the writ petition is fit to be set aside, because as explained in the order passed by the Court on Dharamsheela

	Kumari (supra), majority’ of the elected body present in the special meeting has casted their votes in favour of ‘No Confidence Motion’, but the Mukhiya has decided the matter in the lack of Quorum.
--	--

7. The respondent, District Magistrate, West Champaran, Bettiah, the head of the said district have acknowledged that the decision taken by the Mukhiya is fit to be set aside in view of the **Dharamsheela Kumari** (supra) **judgment**.

8. Earlier the notices were sent to the respondent No. 6 to 19, which include both the *Mukhiya* and *Up-mukhiya* and as per the A.D. report, the same have been validly served upon them personally. However, neither the *Mukhiya*, respondent No. 7 (Anil Kumar), nor the *Up-mukhiya*, respondent No. 10 (Umravati Devi) have filed their appearance.

9. In that background, the writ petition is allowed. The decision taken by the ‘Mukhiya’ of the said Gram panchayat, dated 20.02.2024 (Annexure ‘C’ series) by which he declared that the *Up-mukhiya* (*Umravati Devi*), respondent no. 10 is

declared illegal and the seat stands vacant.

10. The respondents shall take immediate steps for making request to the State Election Commission, Bihar, Patna so that wheels of filing the said vacant post is taken at an earliest.

11. The writ petition stands disposed off with aforesaid order.

(Rajiv Roy, J)

Nirajkrs/-

U		T	
---	--	---	--