

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5297 of 2024

Rinku Devi Wife of Sri Ranjay Kumar, Resident of Village- Rampur Manoratha, Post Office and Police Station- Patahi, District- East Champaran at Motihari, Presently Pramukh of Block Panchayat Samiti, Patahi, District- East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Bihar State Election Commission, Bihar, Patna, through the State Election Commissioner.
4. The District Magistrate, East Champaran at Motihari, District- East Champaran at Motihari.
5. The District Panchayat Raj Officer, East Champaran at Motihari, District- East Champaran at Motihari.
6. The Sub-Divisional Officer, Pakaridayal, District- East Champaran at Motihari.
7. The Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Patahi, District- East Champaran at Motihari.
8. Krishna Kumar Singh, Son of Chandravir Singh, Presently UP Pramukh of Block- Block Panchayat Samiti, Patahi, P.O. and Police Station- Patahi, District- East Champaran at Motihari.
9. Dharmendra Kumar, Son of Jalai Paswan, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
10. Usha Devi, Wife of Vishnu Shankar Singh, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
11. Nirmala Devi, Wife of Pramod Sahni, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
12. Abhishek Kumar Singh, Son of Krishna Kant, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
13. Sunita Devi, Wife of Om Prakash Kumar, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
14. Rina Devi, Wife of Sajjan Mahto, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
15. Fulkumari Devi, Wife of Rajesh Ram, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at



Motihari.

- 16. Chandrama Devi, Wife of Upendra Ray, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 17. Shobha Devi, Wife of Bijay Sah, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 18. Santosh Sah, Son of Mohar Lal Sah, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 19. Naga Raut, Son of Bhabhikhan Raut, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 20. Shiv Pujan Prasad Yadav, Son of Chand Shekhar Prasad Yadav, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 21. Nain, Son of Manir, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 22. Sanjay Sah, Son of Sagar Sah, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 23. Padmaksh Ranjan, Son of Sharda Ranjan Singh, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 24. Nandani Devi, Wife of Bharath Bhushan Sah, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 25. Samprabha Devi, Wife of Ranjeet Ray, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 26. Mantu Baitha, Son of Birendra Baitha, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.
- 27. Sajma Khatoon, Wife of Shekh Badruddin, Elected Member of Block Panchayat Samiti, Patahi, Block- Police Station- Patahi, District- East Champaran at Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Praveen Kumar, Advocate
For the Respondent/s	:	Mr. Shri Nandan Prasad Singh, Sr. Advocate
		Mr. Sarvesh Kashyap, Advocate
For the State	:	Mr. Rajesh Kumar Singh, Advocate
		Mr. Jitendra Kumar, Advocate
For SEC	:	Mr. Ravi Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY



ORAL ORDER

2 09-07-2024 Heard the parties.

2. The petitioner has prayed for the grant of the following reliefs:

(i) to quash the proceeding of Special meeting dated 13.02.2024 which was not been fixed by the requisinits and the same has been fixed by the Up- Pramukh wherein the "No Confidence" was also against them and as such the requisition dated 03.02.2024 declare null and void ab-initio and not sustainable in the eye of law and the same was intentionally not presented on 02.02.2024 in spite of order passed in C.W.J.C. No, 1719 of 2024 by order dated 30.01.2024;

(ii) to direct the District Magistrate, East Champaran to enquire all records relating to the Block Patahi and role of the Block



development Officer, Patahi and during the period of the petitioner/Pramukh and as to whether the allegation made against this petitioner is sustainable or not;

(iii) to direct the requisinist to show cause who found indulged in mob muscle of adopting horse trading to instance the elected members of Panchayat Samiti Block- Patahi to caste vote in his favour;

(iv) to stay the fresh election of the Post of Pramukh in Block- Patahi, District- East Champaran which is going to be held on 13.03.2024 and stay the furtherance proceeding of the meeting dated 13.02.2024;

(v) for other relief/s for which the petitioner found entitle for the



same.

3. The petitioner was earlier a Pramukh, Patahi Block Panchayt to the district of East Champaran and according to her, she was working to the full satisfaction of the people. Subsequently, after two years, a requisition was made for a meeting of 'No Confidence Motion' on 9.1.2014. This followed the letter no. 32 dated 23.1.2024 issued by the respondent no.6, the Block Development Officer cum Executive Officer, Panchayati Samiti, Patahi, East Champaran fixing the date of special meeting on 2.2.2024.

4. The petitioner approached this Court in C.W.J.C. No. 1719 of 2024 with the grievance that it was not personally presented before her as would appear from the receiving dated 9.1.2024 and the charges levelled is/are also not clear and as such it is in the teeth of Section 44(3) (iv) of the Bihar Panchayat Raj Act (henceforth for short 'the Act').

5. After hearing the parties, the earlier bench of this Court disposed of the matter on 30.01.2024 and it would be appropriate to incorporate paras- 6 to 9 which read as follows:

6. Considering the rival submission made on behalf of the parties, the petitioner is required to call all the



elected members and those, who want for special meeting of 'No Confidence Motion' against him, must file their requisition before the petitioner on 02.02.2024 in person and thereafter, the petitioner is directed to fix a date of special meeting in accordance with Section 44(3) (i) of the Act. In case, the petitioner refrains in any manner, the petitioner will be debarred from the functioning as Pramukh.

7. If the meeting is announced by the Up-Pramukh, if he so desire as a presiding member, he must not allow the petitioner to interfere in any manner.

8. In case of failure on the part of the Up-Pramukh, the elected members may convene a special meeting on the said date and the meeting is required to be convened in the manner clarified by the Division Bench of this Court in



LPA No. 113 of 2020 (Dharamsila Kumari vs. Hemant Kumar & Ors.) in paragraph nos. 58 and 59 of the judgment among the elected members present in the meeting.

9. With the aforesaid direction, the present writ petition stands disposed of.

6. As per the Court's order, request was made by the members on 03.20.2024 to fix a date. However, the petitioner chose to disappear with a message that she is in a Hospital in Motihari.

7. The further details were unavailable, the members approached the 'Up-Pramukh' on 03.02.2024 who fixed 18.02.2024 as the date for convening special meeting to discuss the 'No Confidence Motion'.

8. On 13.2.2024, the 'No Confidence Motion' both against the 'Pramukh' as also the 'Up-Pramukh' was/were taken up and the same were passed with 16 voting in its favour (in case of 'Pramukh') and 15 (in case of Up-Pramukh), 1 vote was against the motion.

9. The petitioner again approached this Court.



However, a bare perusal of the prayer would show that the petitioner has chosen to cut paste the earlier petition of C.W.J.C. No. 1719 of 2024 inasmuch earlier special meeting requisitioned has been challenged. The further development/removal has not been challenged.

10. A counter affidavit on behalf of the respondent nos. 4 to 7 is on record duly signed by the respondent, Block Development Officer cum Executive Officer, Panchayati Samiti, Patahi, East Champaran and paras- 6 to 8 read as follows:

6. That 16 elected members appeared in the office of the Pramukh Panchayat Samiti, Patahi on 02.02.2024 with requisition of no- confidence motions, addressed to the Pramukh and waited the Petitioner/Pramukh till 5.00 PM. Copy of the requisition of no confidence motions were given to the Block Development Officer- cum- Executive Officer, Panchayat Samiti, Patahi. The petitioner did not appear in her office rather she sent a letter to



the Sub Divisional Officer, Pakaridayal that she is under treatment at Motihari. The letter was forwarded to the Block Development Officer, Patahi on his Whatsapp. In the letter accurate place of his treatment/physical presence was not mentioned to approach her physically.

7. That on 03.02.2024 the UP-Pramukh was requested to fix date for convening special meeting for discussion on no-confidence motion brought against the Pramukh and UP- Pramukh in terms of para 6 and 7 of the order of the Hon'ble Court. The UP-Pramukh fixed the date 13.02.2022 for convening special meeting for discussion on No-confidence Motion brought against the Pramukh and UP-Pramukh. Accordingly, notice to all the elected members was served. The special meeting was convened on 13.02.2024



in the Meeting Hall of the Block in presence of the observer appointed by District Magistrate -cum- District Election Officer, East Champaran. Out of 21 elected members 17 members participated in the special meeting. The petitioner did not appear in the special meeting. The meeting was convened. The no-confidence Motion was moved against the Pramukh at 10.30 AM. After discussions, the No-confidence Motion against the Pramukh/Petitioner was passed by secret voting as 16 votes were casted in favour of the No-confidence Motion and 1 vote was casted against the no- confidence motion. Likewise the no- confidence motion was also moved against the UP-Pramukh at 2.30 PM 16 members participated in the discussion in. The no-confidence motion was passed by secret voting. The no confidence



motion against the UP-Pramukh was also passed as 15 member casted vote in favour of the no-confidence and one vote against the no-confidence motion;

8. That the result of the special meeting was convened to the State Election Commission, Bihar for further needful vide letter no. 61 and 62 both dated 16.02.2024. The State Election Commission fixed 13.03.2024 date for election for the vacant post of Pramukh and UP-Pramukh vide letter no. 820 dated 23.2.24. Accordingly, notice of election was served upon the elected members. The notice of the petitioner was received by her husband. Election was held on the appointed dated i.e. on 13.03.2024 in the Meeting Hall of Sub Divisional Office, Pakaridayal in presence of the observer appointed by the District Magistrate -cum- District Election Officer, East Champaran. The



*vacancy on the post of Pramukh and
UP-Pramukh were fulfilled through
secrete election.*

11. It is to be noted that the earlier affidavit has been filed by the respondent nos. 4 to 7 in the month of May, 2024 after service of copy to the learned counsel for the petitioner and no rejoinder has been filed to rebut any of the contention.

12. From the aforesaid facts, it is clear that after an order was passed by the Patna High Court on 30.1.2024 and direction was given to her in paragraph-6 as recorded earlier, she chose to defy the said order by doing the disappearing act on 02.02.2024 and in that background, the members after waiting for her, finally it was presented before the Up-Pramukh who fixed the date as 13.2.2024. On the said date 17 out of 21 elected members participated and the 'No Confidence Motion' was passed after the discussion/debate inasmuch as 16 votes were cast in favour of 'No Confidence Motion' while one vote against so far as the case of petitioner is concerned, in case of 'Up-Pramukh', 15 votes were in favour of the motion while 1 vote against it. Both the seats were declared vacant and subsequently notified to the State



Election Commission, Bihar vide letter no. 61 and 62 both dated 16.2.2024, whereafter, it fixed 13.3.2024 as the date of election. On that date, election took place and a new incumbent was elected as the 'Pramukh', (the respondent no.9, Dharmendra Kumar) while respondent no.13, Sunita Devi was elected as Up-Pramukh.

13. The contention of the learned Senior Counsel appearing on behalf of respondent no.9 (Dharmendra Kumar who is thus now the elected Pramukh) submits that a perusal of the petition as also the submissions would clearly show that the petitioner earlier approached this Court only to buy time and chose to defy the order which was clearly incorporated in para-6 of the petition. He as such submits that the writ petition is fit to be dismissed with exemplary cost.

14. Having gone through the facts of the case as also the materials on record, this Court finds force in the submissions put forward by the learned Senior Counsel appearing on behalf of the respondent no.9, the 'Pramukh'.

15. Earlier, after the requisition was made, the petitioner rushed to this Court in C.W.J.C. No. 1719 of 2024 claiming that it was not presented before her and as such the same is in the teeth of 'the Act'. It was disposed of on



30.1.2024 with a clear direction that once requisition is preferred before the petitioner, she shall direct fixing a date of special meeting in accordance with section 44(3) (i) of 'the Act'. It was further observed that in case, the petitioner refrains in any manner, she shall be debarred from functioning as 'Pramukh'.

16. Admittedly, the members preferred a petition on 02.02.2024. The petitioner chose to disappear inasmuch as a vague letter was sent that she is under treatment at Motihari without providing any details of the Hospital/Nursing Home.

17. As per the counter affidavit, after waiting for a day as she chose to absent herself, it was presented before the Up-Pramukh which followed the special meeting on 13.2.2024, discussion/voting/removal of the petitioner as also the Up-Pramukh. Thereafter, it was notified to the State Election Commission to fix a date and on 13.3.2024, new incumbents came following the election. The petitioner chose not to reply to the different paragraphs of the counter affidavit.

18. In the aforesaid circumstances, this Court can safely hold that the petitioner has misused the privilege granted to her under Article 226 of the Constitution of India. Worse, the order dated 30.01.2024 passed in C.W.J.C. No. 1719



of 2024 (para-6) was defied by her by not fixing the date for special meeting. The respondents thereafter fixed the date, the no confidence motion was passed on 13.02.2024 and later, new Pramukh/Up-Pramukh were elected. The subsequent election too has/have not been challenged.

19. In that background, the writ petition stands dismissed with a cost of Rs. 5000/- to be deposited with District Legal Services Authority, East Champaran at Motihari within a period of four weeks from today and the amount shall be used by it for the purchase of Journals for its library.

20. The writ petition is dismissed.

(Rajiv Roy, J)

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