

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 297 of 2024

In

Civil Writ Jurisdiction Case No 1892 of 2024

1. Neetu Kumari Wife of Mithilesh Kumar, resident of vill. - Bahluhi, P.S. Garkha, District - Saran, Pin Code- 841419 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer- cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
2. Kanti Devi, Wife of Govind Ram, resident of Bhawalpur, P.O. Bhawalpur, District Saran 841418 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
3. Durgawati Devi, Wife of Visheshwar Manjhi, resident of P.O. Narharpur, P.S. Marhowrah, District- Saran 841443 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
4. Chaney Devi @ Chandey Devi, Wife of Narsih Sah, resident of Rampur Pokhri, Damodarpur, District Saran 841442 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
5. Sonam Devi, Wife of Sonu Manjhi, resident of vill. - Khorampur, Rampur, District Saran 841442 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah, P.O. and P.S. Marhowrah, District- Saran at Chapra.
6. Shashi Kant @ Shashikant Singh, Son of Chandeshwar Singh, resident of Bahuara Patti, District - Saran 841442 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah, P.O. and P.S. Marhowrah, District- Saran at Chapra.
7. Kalyani Devi @ Kalyanti Sinha, Wife of Yogendra Sinha, resident of Deo Bahuara, District - Saran 841442 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
8. Punam Devi, Wife of Mokhtar Prasad, resident of Gaura, District - Saran 841443 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah, P.O. and P.S. Marhowrah, District- Saran at Chapra.
9. Pinki Devi, Wife of Madan Prasad Singh, resident of Hathrat, District- Saran 841443 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer,



Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.

10. Priyanka Devi, Wife of Ajun Kumar Chanda, resident of Tejpurwa, District- Saran 841419 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
11. Mohan Kumar Sah, Son of Lripal Sah, resident of Repura, Mirjapur, Marwohrah, District- Saran 841419 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
12. Fullkumari Devi, Wife of Chhatilal Manjhi, resident of Ward No. 07, Vill. - Awari, Marhowrah, District - Saran 841418 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
13. Jahir Ahmad Azad, Son of Mohammad Zabbar Ahmad Azad, resident of Nautan Mathiya, Amnour, District- Saran 841401 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
14. Manoj Rai @ Manoj Ray, Son of Shivnath Ray, resident of Hasanpura, District- Saran 841418 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
15. Anita Kumari, Wife of Ankit Kumar, resident of Shilauri, District - Saran 841418 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
16. Mohammad Hasnain @ Md Hassnain Ali, Son of Mohammad Isaroyal Ali, resident of Mirjapur, District- Saran 841419 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
17. Rita Devi, Wife of Arun Ray, resident of vill. - Sihoriya, P.O. Bardahya, District- Saran 841419 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
18. Awadhesh Kumar @ Avadhesh Kumar, Son of Shivraj Bhagat, resident of Mobarakpur, Saran 841415 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
19. Vishwakarma Kumar Rai, Son of Shyam Lal Rai, resident of vill. -



Bhualpur, P.O. Bhualpur, District- Saran 841415 and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The District Magistrate Saran at Chapra, District- Saran at Chapra.
4. The District Panchayati Raj Officer, Saran at Chapra, District- Saran at Chapra.
5. The Sub-Divisional Officer, Marhowrah, District- Saran at Chapra.
6. The Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah District- Saran at Chapra.
7. Rina Devi, wife of not known to the petitioner, aged about not known to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
8. Rajnish Kumar, Son of not known to the petitioner, aged about not known to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
9. Deepak Kumar, Son of not known to the petitioner, aged about not known to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
10. Lal Babu Sah, Son of not known to the petitioner, aged about not known to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
11. Sudamo Devi Wife of not known to the petitioner, aged about not known to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
12. Bhuneshwar Singh, Son of not known to the petitioner, aged about not known to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.



13. Mamta Kumari, Wife of not known to the petitioner, aged about not know to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
14. Anu Devi, Wife of not known to the petitioner, aged about not know to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
15. Jobaida Khatoon, Wife of not known to the petitioner, aged about not know to the petitioner, resident of not known to the petitioner and presently Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District- Saran at Chapra.
16. Ramta Kumar Singh, S/o Not Known to the petitioner Presently Elected Member of Block Panchayat Samiti, Marhowrah, through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah, P.O. and P.S.- Marhowrah, District- Saran at Chapra.
17. Gayatri Devi, Wife of Shila Prasad Yadav, resident of Vill and P.O. Madhopur, P.S. Marhowrah, District- Saran, aged about not know to the petitioner, wife of not known to the petitioner, resident of not known to the petitioner and presently Pramukh Elected member of Block Panchayat Samiti, Marhowrah through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Marhowrah, P.O. and P.S. Marhowrah, District- Saran at Chapra.

... .. Respondent/s

WITH**Civil Writ Jurisdiction Case No 1892 of 2024**

=====

Gayatri Devi wife of shila Prasad Yadav, Resident of village and P.O. Madhopur, P.S. Marhowrah. District - Saran at Chapra, presently Pramukh of Block Panchayat Samiti, Marhowrah, District - Saran at Chapra.

... .. 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 District Magistrate Saran at Chapra, District - Saran at Chapra.
4. The District Panchayat Raj Officer, Saran at Chapra District- Saran at Chapra.
5. The Sub-Divisional Officer, Marhowrah. District - Saran at Chapra.
6. The Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Marhowrah District - Saran at Chapra.



7. Kanti Devi wife of not known to the petitioner, Presently Up-Pramukh of Block Panchayat Samiti, Marhowrah ,P.O. and P.S. Marhowrah, District - Saran at Chapra.
8. Rina Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
9. Durgawati Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
10. Chandi Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
11. Sonam Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
12. Shashi Kant Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
13. Kalyani Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
14. Punam Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
15. Pinki Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
16. Priyanka Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
17. Mohan Kumar Sah Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
18. Fulkumari Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.



19. Rajnish Kumar Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
20. Jahir Ahmad Azad Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
21. Deepak Kumar Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
22. Manoj Rai Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
23. Anita Kumari Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
24. Lal Babu Sah Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
25. Sudamo Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
26. Mohammad Hasnain Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
27. Bhuneshwar Singh Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
28. Rita Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
29. Mamta Kumari Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
30. Anu Devi Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S.



Marhowrah, District - Saran at Chapra.

- 31. Jobaida Khatoon Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
- 32. Nitu Kumari Wife of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
- 33. Awadhesh Kumar Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
- 34. Vishwakarma Kumar Rai Son of not known to the petitioner Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra.
- 35. Ramta Kumar Singh Elected members of Block Panchayat Samiti, Marhowrah through the Block Development Officer -cum- Executive Officer, Block Panchayat Samiti, Marhowrah P.O. and P.S. Marhowrah, District - Saran at Chapra. Son of not known to the petitioner

... .. Respondent/s

=====

Appearance :

(In Letters Patent Appeal No 297 of 2024)

- | | | |
|---------------------------|---|--|
| For the Appellant/s | : | Mr Sanjay Singh, Sr Advocate with
M/s Raushan, Sahil Kr, Rudrank Shivam Singh,
Advocates |
| For the S t a t e | : | Mr S D Yadav, AAG IX
Mr Anil Kr Verma, AC to AAG IX |
| For private Respondents : | | Mr S B K Mangalam, Advocate |
- (In Civil Writ Jurisdiction Case No. 1892 of 2024)
- | | | |
|----------------------|---|---------------------------|
| For the Petitioner/s | : | Mr Awnish Kumar |
| For the Respondent/s | : | MrAddl Advocate General 9 |
- =====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-05-2024

The LPA was against an interim order and, hence, we called for the writ petition especially since the matter dealt with a



No Confidence Motion moved against the Pramukh. The learned Single Judge, in the order, directed the District Magistrate to call for the individual affidavits of the elected members of the Panchayat Samiti and if frivolous allegations are raised against the petitioner, then the District Magistrate to prosecute them in accordance with law.

2 We are of the opinion that there is absolutely no provision for the aforesaid procedure by the District Magistrate. The learned Senior Counsel appearing for the appellants pointed out Section 157 of the Bihar Panchayat Raj Act, 2006, which confers the District Magistrate with powers, upon an information or suo motu, to proceed if there is any irregularity or mistake committed on the interpretation of the provisions relating to conduct of any special meeting of a Panchayat. However, this provision does not confer powers on the District Magistrate to call for individual affidavits from members to know their mind even before a no-confidence motion is placed in the Council. This would be, as pointed out by the learned Senior Counsel, putting the horse before the cart. The No Confidence Motion, as projected in the requisition, will have to be voted in the House after due deliberations. The District Magistrate cannot look into the allegations and call for either affidavits of the individual members



or proceed to prosecute the requisitionists invoking the powers conferred under Section 157.

3 In any event, the issue raised in the writ petition is in a narrow compass; as to the conduct of a special meeting for the purpose of considering the No Confidence Motion. The requisitionists intended to move a No Confidence Motion but could not do it because the Pramukh was on leave. On 14.01.2024, the Pramukh is said to have joined back upon which they went with the requisition on 15.01.2024 which was refused to be accepted by the Pramukh. They went to the Executive Officer who directed them to again approach the Pramukh upon which also the Pramukh refused to accept the requisition.

4 The learned counsel for the writ petitioner, who is the Pramukh, submits that the Pramukh received the requisition, as submitted to her, through the Executive Officer. However, it is admitted that no meeting was convened by the Pramukh even after receipt of the No Confidence Motion through the Executive Officer.

5 The requisitionists again approached the Up Pramukh who convened the meeting on 05.02.2024 against which the Pramukh approached this Court with the writ petition in which the interim order was passed against which the appeal is filed.



6 We are of the opinion that the matter can be resolved by convening a special meeting. On consent of the parties, we direct the Executive Officer to convene the special meeting on 22.05.2024.

7 We set aside the interim order passed in the writ petition and allow the appeal. The writ petition is also disposed of with the above directions.

8 We make it clear that the Pramukh shall not by herself or through a Committee take any policy decision having financial implications till the no confidence motion is considered and after that the matter shall be subject to the result of the no confidence motion.

9 Ordered accordingly.

(K Vinod Chandran, CJ)

(Harish Kumar, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2024
Transmission Date	NA

