

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.352 of 2024
In
Civil Writ Jurisdiction Case No.2212 of 2024

=====

Munni Khatun W/o Md. Sarfaraz Miyan, resident of village- Pandey Parsa,
Post Office-Bhagwat Parsa, P.S. - Fulwariya, District - Gopalganj.
... .. Appellant

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, Gopalganj.
4. The District Panchayat Raj Officer, Gopalganj.
5. The Sub Divisional Officer, Hathua, District-Gopalganj.
6. The Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Fulwaria, District- Gopalganj.
7. The Election Commission of Bihar through The Election Commissioner, Bihar, Patna.
8. Prabhawati Devi, Wife of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
9. Chhathu Sah, son of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
10. Fatma Begum, Wife of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
11. Asha Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
12. Akbar Ali, son of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
13. Pappu Ram, son of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
14. Tabassum Ara, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
15. Vijay Pratap Gupta, son of not known to the petitioner, elected member of



Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.

- 16. Pramod Sah, son of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
- 17. Birendra Pandit, son of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
- 18. Kishandev Sah, son of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
- 19. Rani Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
- 20. Amin Ansari, Son of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
- 21. Indra Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
- 22. Anumpa Devi, wife of not known to the petitioner, elected member of Block Panchayat Samiti, Fulwaria through the Block Development Officer cum Executive Officer, Block Panchayat Samiti, Fulwaria, P.O. and P.S. Fulwaria, District-Gopalganj.
- 23. The Election Commission of Bihar through the Election Commissioner, Bihar, Patna.

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Kumar Harshvardhan, Advocate Mr. Kumar Abhishek, Advocate Mr. Adarsh Singh, Advocate Mr. Sudhanshu Prakash, Advocate
For the Respondent/s	:	Mr. Ajay, GA-5
For the SEC	:	Mr. Ravi Ranjan, Advocate Mr. Girish Pandey, Advocate
For the Private Resp.	:	Mr. Amit Shrivastava, Sr. Advocate Mr. Lokesh Kumar Singh, Advocate Mr. Ranjeet Choubey, Advocate

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



ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-04-2024

The writ petitions filed by the Pramukh and Up-Pramukh against the No Confidence Motion being carried on 12.01.2024 were rejected by the learned Single Judge, finding that there was undue delay of more than three months. It was also found that there was already an election scheduled on 07.02.2024, which however was stayed in the writ petition. After dismissal of the writ petition, by the impugned judgment there is an election scheduled on 22nd April, 2024.

2. We have heard Mr. Y. C. Verma, learned Senior Counsel appearing for the appellant, Mr. Amit Shrivastava, learned Senior Counsel for the private respondents, who are the requisitionists herein, Mr. Ravi Ranjan, learned Counsel for the State Election Commission and Mr. Ajay, learned GA-5 for the State.

3. The requisition was made admittedly on 30.12.2023. The Pramukh asserts that she did not receive a copy of the requisition. However, the party-respondents submit that the Pramukh had received the requisition and acknowledged it as can be seen from her signature affixed in the order sheet dated 30.12.2023 of the Panchayat Samiti, which is produced at Annexure-R17/2 to the counter affidavit of the private



respondents dated 15.02.2024. It is also pointed out from Annexure – P-2 in the writ petition that the Executive Officer had intimated the convening of the meeting on 12.01.2024. Despite this, the Pramukh or the Up-Pramukh did not attend the meeting. It is further argued that the averments made in the writ petition amount to a deliberate falsehood to mislead this Court.

4. On facts, it is to be noticed that the requisition was made on 30.12.2023. We will, for a moment, take it that the requisition was received by the Pramukh.

5. Section 44 (3) of the Bihar Panchayat Raj Act, 2006 specifies that the requisition for a special meeting to consider the no confidence motion shall be presented to the Pramukh in writing with a copy to the Executive Officer of the Panchayat Samiti, by not less than one third of the total number of members elected directly from the territorial constituencies. The provision then provides that the Executive Officer should immediately bring the requisition to the notice of the Pramukh and the Pramukh should convene such meeting on a date falling within 15 days of such requisition. It is further provided that if the Pramukh fails to call the special meeting, the Up-Pramukh or the requisitionists themselves i.e. one third of the total number of members elected directly, could call for a special meeting. It is crystal clear that the right of the Up-Pramukh or



the requisitionists to call for a special meeting would arise only on the expiry of the first fifteen days.

6. In the present case, the requisition was made on 30.12.2023 and the special meeting convened by the requisitionists, as notified by the Executive Officer to the Pramukh and Up-Pramukh was on 12.01.2024, within the fifteen days period.

7. In the above circumstances, we are of the opinion that there is a clear statutory violation insofar as the convening of the meeting is concerned.

8. However, the Pramukh has also failed to comply with the statutory obligation cast on the Pramukh, to call for a meeting within fifteen days; since till 12th, the 13th day, no meeting was scheduled.

9. Since there is clear statutory violation in convening the meeting, where the No Confidence Motion was scheduled; we are of the opinion that the election convened on 22.04.2024 shall not be proceeded with.

10. However, it is imperative that the No Confidence Motion be considered immediately. The No Confidence Motion will be considered on 26.04.2024 at 11:00 AM in the Panchayat Bhawan, in the presence of the Executive Officer.

11. The requisitionists and the appellant, who appear



in the case will not be given any further notice. If there are any other Panchayat Samiti Members, who are not parties to the writ petition, then the Executive Officer shall issue notice to them regarding the meeting convened by this Court.

12. We have taken note of the submission of the learned Senior Counsel for the respondents about the deliberate falsehood attempted by the petitioner. On going through the entire documents, we are of the opinion that it is better to refrain from making any observation regarding that.

13. Whatever legal consequences follow, on the decision taken at the meeting will have to be scrupulously complied with.

14. With the above observation and reservation, the present appeal stands allowed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.04.2024.
Transmission Date	NA

