

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.408 of 2024

In
Civil Writ Jurisdiction Case No.4133 of 2024

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Sri Jayprakash Paswan @ Jaiprakash Paswan, Son of Radheshyam Hazara @ Radheshyam Paswan, Pramukh, Panchayat Samiti, Gaunaha, Resident of Village- Vijaypur, Bishunpurwa, Belsandi, West Champaran, P.S. - Gaunaha, District - West Champaran- 845455, Bihar

... .. Appellant/s

Versus

1. Rajpati Devi, Wife of Laxman Ram Resident of Village - Barawa, P.S. - Sahodra, District- West Champaran- 845455, Bihar
2. The State of Bihar through the Additional Chief Secretary, Panchayat Raj Department, Government of Bihar, Patna.
3. The Collector cum District Magistrate, West Chamaparan, Bettiah, Bihar.
4. The Sub-Divisional Officer Narkatiyaganj, West Champaran, Bihar.
5. The Executive Officer cum Block Development Officer Gaunaha, West Champaran, Bihar.
6. Sri Amresh Kumar @ Rajesh Garhwal, Son of Devnarayan Guro Up Pramukh, Panchayat Samiti, Gaunaha, Resident of Village- Jamhauli, P.S. - Gaunaha, District- West Champaran- 845455

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Yash Mathur, Advocate Ms. Kirti Mathur, Advocate Mr. Ajay Kumar, Advocate
For the Respondent/s	:	Mr. Government Advocate-5
For Respondent No. 1	:	Mr. Vikash Kumar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-10-2024

The writ petition is filed against an order of the learned Single Judge which directed consideration of a representation.

2. On the brief facts; the writ-petitioner made a



requisition of No Confidence along with some other members of the Panchayat Samiti, Gaunaha, West Champaran. The 5th respondent was the Pramukh and the 6th respondent was the Up-Pramukh against whom the requisition was made. The writ-petitioner's contention was that on the date fixed for special meeting i.e. 15.01.2024, none of the elected members of the Panchayat Samiti nor the requisitionists were present. However, the same was not recorded by the Block Development Officer-cum-Executive Officer in the minutes of the meeting and it was recorded that there was obstruction caused by the Pramukh and the Up-Pramukh in holding of the meeting on 15.01.2024.

3. The writ-petitioner rushed to this Court, and this Court without issuing notice to the Pramukh and the Up-Pramukh, passed an order directing a representation to be considered before the District Magistrate, West Champaran.

4. The writ-petitioner, who is the 1st respondent in the appeal, appears through Counsel; who submits that the District Magistrate has already disposed of the representation.

5. Learned Counsel for the appellant, however, submits that when a special meeting has been held for No Confidence Motion, there is no question of a further special meeting for the very same cause, as per Section 44 of the Bihar



Panchayat Raj Act, 2006.

6. Learned Counsel for the writ-petitioner however, would submit that Section 44 has no application since the special meeting did not occur because of the absence of the members of the Panchayat Samiti.

7. Since as of now the District Magistrate has considered the representation and rejected it, it is for the writ-petitioner to challenge the same. The writ-petitioner is said to have challenged the same in CWJC No. 11349 of 2024 in which notice has also been issued to the Pramukh and the Up-Pramukh.

8. In the above circumstances, we are of the opinion that the entire controversy can be agitated in CWJC No. 11349 of 2024, wherein the parties have appeared. It will also be open for the Pramukh and the Up-Pramukh to raise every contention, including the jurisdiction of the District Magistrate to consider a representation, before the learned Single Judge. We make it clear that the mere direction to consider a representation will not regulate the adjudication of the subsequent writ petition filed. The applicability of Section 44, on the particular facts of this case, is also left open to be considered.

9. With the above observations, we dispose of the



Letters Patent Appeal leaving all contentions open to be urged in
CWJC No. 11349 of 2024.

10. Interlocutory Application(s), if any, shall stand
closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	25.10.2024
Transmission Date	

