

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.570 of 2024

In
Civil Writ Jurisdiction Case No.1629 of 2024

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Aditi Devi, W/o- Ravi Kumar, R/o- Village- Dharmbari, Post Office- Safiyabad, Police Station- Baikunthpur, District- Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar, through the Additional Chief Secretary, Panchayat Raj Department, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The District Panchayat Raj Officer, Gopalganj.
4. The Sub-Divisional Officer, Magistrate, Gopalganj.
5. The Block Development Officer-cum-Executive Baikunthpur, District-Gopalganj.
6. Urmila Devi, Wife of Lakshman Das, Member Panchayat Samiti, Panchayat Sirsamanpur, Area- 15, Resident of Village- Sirsa, P.S. Baikunthpur, District-Gopalganj.
7. Arun Prasad, Son of Osihar Prasad, Member, Panchayat Pyarepur, Area-29, Resident of Pyarepur, P.S. Baikunthpur, District- Gopalganj.
8. Jaibun Khatoon, Wife of Kalamuddin Miyan, Member Panchayat Samiti, Panchayat- Bakhari, Area- 28. Resident of Paharpur, P.S. Baikunthpur, District-Gopalganj.
9. Maya Devi, Wife of Shatrudhan Das, Member, Panchayat Samiti, Panchayat- Katalpur, Area-22. Resident of Katalpur, P.S. Baikunthpur, District- Gopalganj.
10. Naina Devi,, Wife of Raj Kumar Mahto, Member, Panchayat Samiti, Panchayat- Dharmbari, Area- 10. Resident of Safiyabad, P.S. Baikunthpur, District- Gopalganj.
11. Manisha Kumari, Wife of Sunil Kumar Member, Panchayat Samiti, Chimanpura, Area-08, Resident of Chamanpura, P.S. Baikunthpur, District-Gopalganj.
12. Priyanka Kumari, Wife of Vijay Kumar Ram, Member, Panchayat Samiti, Hamidpur, Area-24, Resident of Sonbaliya, P.S. Baikunthpur, District-Gopalganj.
13. Sunita Devi, Wife of Raj Kishore Prasad Yadav, Member, Panchayat Samiti, Bansghat Masuriya, Area-16, Resident of Maharani Ugarsen, P.S. Mahammadpur, District-Gopalganj.
14. Kiran Devi, Wife of Ashok Das, Member, Panchayat Samiti, Parsauni, Area-01, Resident of Village- Parsauni, P.S. Mahammadpur, District-Gopalganj.
15. Jhalu Ram, Son of Badari Ram, Member, Panchayat Samiti, Gamhari, Area-25. Resident of Village- Sonbarsa, P.S. Baikunthpur, District. Gopalganj.



16. Imam Hussain, Son of Asharfi Miyan, Member, Panchayati Samiti, Bangra, Area-27, Resident of Village- Bangra, P.S. Baikunthpur, District- Gopalganj.
17. Ramjee Bhagat, Son of Dwarika Bhagat, Member, Panchayati Samiti, Reotith, Area-03, Resident of Village- Reotith, P.S. Baikunthpur, District. Gopalganj..
18. Rehana Khatoon, Wife of Hasan Jaan, Member, Panchayat Samiti, Reothi, Area-04, Resident of Village- Reotith, P.S. Baikunthpur, District. Gopalganj..
19. Saraswati Devi, Wife of Munna Tiwari, Member, Panchayat Samiti, Hakam, Area-06, Resident of Village- Hakam, P.S. Baikunthpur, District. Gopalganj.
20. Harendra Mahto, Son of Ram Surat Mahto, Member, Panchayat Samiti, Jagdishpur, Area-23, Resident of Village-Jagdishpur.
21. Neera Devi Wife of Prabhat Trivedi, Member, Panchayat Samiti- KhairaAzam, Area-2, Resident of Bankatti. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
22. Naidu Devi Wife of Harindra Singh, Member Panchayat Samiti, Panchayat- Hakam, Resident of Hakam. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
23. Paras Mahto, Son of Jodha Mahto, Member, Panchayat Samiti, Panchayat- Azbinagar, Area-7, Resident of Azbinagar. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
24. Savitri Devi Wife of Birendra Prasad Singh, Member, Panchayat Samiti, Panchayat- Chamanpura, Area-9, Resident of Chamanpura. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
25. Munna Devi Wife of Harendra Giri, Member, Panchayat Samiti, Panchayat- Dighwadubauli South, Area-12, Resident of Sigarsni. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
26. Lal Babu Singh Son of Dhenuk Singh, Member, Panchayat Samiti, Panchayat- Dighwadubauli South, Area-13, Resident of Khaju Hatti Tola- Dayagir. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
27. Nidhi Devi, Wife of Arvind Singh, Member, Panchayat Samiti, Panchayat- Sistra Manpur, Area-14, Resident of Shankarpur. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
28. Suganti Devi, Wife of Surendra Rai, Member, Panchayat Samiti, Panchayat- Usri, Area-17, Resident of Usri. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
29. Champa Devi, Wife of Kishnath Sah, Member, Panchayat Samiti, Panchayat- Bandhauli Banaura, Area-18, Resident of Banaura. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
30. Anarma Prasad Son of Babulal Mahto, Member, Panchayat Samiti, Panchayat- Chiutahan, Area-19, Resident of Bhagwanpur. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
31. Munna Kumar Mahto Son of Ram Prasad Mahto, Member, Panchayat Samiti, Panchayat- Dighwadubauli (North), Area-20, Resident of Mathiya, Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.



32. Vijay Kumar Ojha Son of Jamadar Ojha, Member, Panchayat Samiti, Panchayat- Dighwadubauli (North), Area-21, Resident of Dighwa. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.
33. Kavita Devi Wife of Upendra Rai, Member, Panchayat Samiti, Panchayat- Faijullahpur, Area-26, Resident of Faijullahpur. Police Station- Baikunthpur, Block- Baikunthpur, District- Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manjeet Kumar Bishen, Advocate Mr. Mritunjay Kumar, Advocate Mr. Brajesh Sahay, Advocate
For the State	:	Mr. Ajay Behari Sinha, GA-8 Mr. Upendra Kumar Singh, AC to GA-8

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 22-07-2024

1. Heard learned counsel for the appellant and learned Government Advocate for the State of Bihar.

2. The instant appeal has been preferred against the judgment dated 30.1.2024 passed in CWJC no.1629 of 2024. The appellant has also filed an interlocutory application for condoning the delay in filing of the instant appeal.

I. A. no. 1 of 2024

3. The instant interlocutory application has been filed by the appellant praying for condoning the delay of 78 days in filing of the instant appeal.

4. The limitation for filing the appeal against the order dated 30.1.2024 passed by the learned Single Judge expired on



29.2.2024, however, the appeal was preferred after a delay of 78 days on 17.5.2024.

5. It has been submitted by learned counsel for the appellant that after passing of the order under challenge, the appellant sought legal opinion and ultimately made up her mind to file this Letters Patent Appeal. She had to take loan from her relatives and friends to arrange for money and all this led to the delay in filing of the appeal.

L.P.A. no. 570 of 2024

6. The case of appellant in brief is that she is the *Pramukh* of Block-Baikunthpur in the District of Gopalganj. Pursuant to a requisition having been made by 15 members of the *Panchayat Samiti* of Baikunthpur Block, the Block Development Officer-cum-Executive Officer by notice issued on 5.1.2024 fixed a special meeting of no-confidence motion against the appellant on 13.1.2024. The appellant moved this Court in CWJC no. 763 of 2024, wherein by order dated 12.1.2024, the learned Single Judge was pleased to set aside and quash the said notice on the ground that no clear 7 days had been provided as required under section 46(4) of the Bihar Panchayat Raj Act, 2006 ('the Act' in short).

7. Another requisition for convening a special meeting



of no-confidence against the appellant was made on 22.1.2024, on which the meeting was fixed by the Executive Officer, Panchayat Samiti, Baikunthpur to be held on 31.1.2024 at 11:00 a.m. This was challenged by the appellant by filing CWJC no.1629 of 2024, which was disposed of by the learned Single Judge by his order dated 30.1.2024 observing that the appellant being a *Pramukh* must not refrain from holding no-confidence motion. The learned Single Judge directed the elected members to appear on 3.2.2024 at 11:00 a.m. to fix a date for the no-confidence motion in accordance with law. It is against this order dated 30.1.2024 passed by the learned Single Judge that the instant appeal has been preferred.

8. It has been submitted by learned counsel for the appellant that the requisition for moving the no-confidence motion is not in accordance with law as per section 44 of the Act and that the learned Single Judge has exceeded his jurisdiction by fixing a date for the no-confidence motion. In support of his contentions, learned counsel for the appellant has relied on the judgments in the cases of Anil Kumar Singh vs. State of Bihar & Ors. [2020 (1) BLJ 833], Sheikh Hassmuddin & Anr. vs. The State of Bihar & Ors. [2015 (3) PLJR 203], Dharamsheela Kumari vs. Hemant Kumar & Ors. [2021 (4) BLJ



194] and Chandrakanti Devi vs. The State of Bihar & Ors. [2003 (4) PLJR 429].

9. The appeal is opposed by learned Government Advocate appearing for the State of Bihar.

10. Having heard learned counsel for the parties and having perused the material on record, the Court finds that the requisition by 15 out of the 29 members of the *Panchayat Samiti* of Baikunthpur Block requesting for fixing a special meeting of no-confidence motion on 13.1.2024 against the appellant was set aside by this Court on the ground that no clear 7 days notice had been provided as required under section 46(4) of the Act. Thereafter, another requisition was moved but as the appellant/*Pramukh* chose not to receive the same, the requisition was lastly given to the *Up-Pramukh* on 20.1.2024, who fixed the date of 22.1.2024 for convening a special meeting of no-confidence motion. In the meeting held on 22.1.2024, a special meeting was fixed at 11:00 a.m. on 31.1.2024 for discussing the no-confidence motion against the appellant. It was against this fixing of the special meeting on 31.1.2024 by the Block Development Officer-cum-Executive Officer that the appellant moved this Court in CWJC no.1629 of 2024, wherein the learned Single Judge observed that the appellant being a



Pramukh must not refrain from holding a no-confidence motion. As the elected members were aware about the requisition, this Court fixed the date for conveying the no-confidence motion in accordance with law on 3.2.2024 at 11:00 a.m. It is against this order dated 30.1.2024 that the instant appeal has been preferred.

11. On a query by the Court about the result of meeting for no-confidence held on 3.2.2024, as fixed by the Court, learned counsel for the appellant informed the Court that the appellant lost the no-confidence motion.

12. This Court finds from the contents of the limitation petition (I. A. no.1 of 2024) that after the no-confidence motion having been successfully moved against the appellant on 3.2.2024, the appellant on 22.2.2024 filed CWJC no.3492 of 2024 for the following reliefs:-

“(i). To quash the process of the meeting dated 03.02.2024 which was found complete with violation of the order dated 30.01.2024, passed in CWJC NO. 1629/2024 passed by the Hon'ble Mr. Justice Purnendu Singh and without taking in to consideration by the respondents no.2.3&4 where by and where under they have directed open to cast voting in the said meeting and in the absence of any clear charges against the Petitioner (being Pramukh) and as such without presenting any requisition by any one of the elected members before the



Pramukh and without any discussion of on 'No Confidence Motion' for which the Petitioner being the Pramukh was present itself in the said Meeting for which she was obliged with and was directed passed by this Hon'ble Court the post of the petitioner announce vacant.

(ii). To stay the furtherance proceeding of the alleged meeting dated 03.02.2024 which was complete against the provisions and Sections 44 (3) (i) (iv) (v) and (vi) and Sections 46 (4) (10) and (11) of the Bihar Panchayat Raj Act,2006. and to show cause under what circumstances and whom with connivance they have taken Law in their hands and directed hold the meeting for open cast voting and have decided to fix a date for Election of Pramukh..

(iii). To directed the Respondents No.2, 3&4 to place the entire proceedings report including the video recording of the meeting dated 03.02.2024 to the verify that the said meeting was accordance with the order dated 30.02.2024 paased in CWJC NO. 2629/2024 or not and also to see that what conduct and role of their was participation of the respondents no.4,and 5 6 was accordance with section 44 of the Bihar Panchayat Rah Act,2006 and of their act of inaction in the said meeting the petitioner could not fix the date for Special Meeting

(iv) To, directed the Petitioner till presenting the requisition to fixing the date of special meeting before the pramukh the petitioner



may hold of her respective post which was illegally declared vacant by the Respondents no.3&4 without presenting the requisition before the Pramukh and in the absence of any valid requisition, the post of the Petitioner being Pramukh declared vacant.

(v). To issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would found entitled under the facts and circumstances of the case.”

13. It further transpires that CWJC no.3492 of 2024 was disposed of having been withdrawn by the appellant by order dated 28.2.2024 in the following terms:-

“Heard Mr. Mirityunjay Kumar, learned counsel appearing on behalf of the petitioner, Mr. Ravi Ranjan, learned counsel appearing on behalf of the State Election Commission, Mr. Md. Harun Quareshi, learned AC to SC 1 appearing on behalf of the State and Mr. Anand Tiwari, along with Mr. A. K. Jha, learned counsels appearing on behalf of the intervenor.

2. Learned counsel appearing on behalf of the petitioner informed this Court that the notified election is to be held today and seeks withdraw the present writ application with liberty to file a fresh representation.

3. Accordingly, the present writ petition stands disposed of.”



14. The appellant having challenged the proceedings of the meeting held on 3.2.2024, wherein, the no-confidence motion was successfully passed against this appellant, the writ application (CWJC no.3492 of 2024) having been filed challenging the same and withdrawn by the appellant with liberty to file a representation, nothing remains to be decided so far as the instant appeal is concerned.

15. As dealt with herein above, the appellant has also not made out any case for condonation of delay of 78 days in filing of this appeal.

16. The Court finds no merit in the interlocutory application filed for condonation of delay nor in the Letters Patent Appeal.

17. Both I. A. no. 1 of 2024 as also L.P.A. no. 570 of 2024 are dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

avinash/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.07.2024
Transmission Date	

