

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11349 of 2024

1. Rajpati Devi wife of Laxaman Ram, Resident of Village- Barawa, P.S. Sahodara, District- West Champaran, Bihar.
2. Dharmesen Kumar Ram, S/o- Ramlakhan Ram, resident of- Belsandi, West Champaran, Bihar- 845455.
3. Shashi Kumar Singh, S/o- Bachcha Singh, resident of Pakdi Bisauli, Ward no- 12, Madhopur, District- West Champaran, Bihar- 845455.
4. Kavita Devi, W/o- Mintu Dishawa, resident of- Sonbarsa, Sonbarsa, Serwa Masjidwa, District- West Champaran, Bihar- 845455.
5. Nandu Sah, S/o Banshi Sah, resident of- Ward no.- 12, Hauda Dumra, Mehnaul Kala, Belsandi, District- West Champaran, Bihar- 845455.
6. Nand Kishore Chaurasia @ Nand Kishore Prasad Chaurasia, S/o- Prayag Prasad Chaurasia, resident of- Shrirampur, Ward no- 10, Bitharwa, Bitharwa Ashram, District- West Champaran, Bihar- 845455.
7. Vivek Kumar, S/o- Suresh Prasad, resident of Belwa, District- West Champaran, Bihar- 845455.
8. Pradeep Sah, S/o- Jugul Sah, Ward no- 07, Majharia, District- West Champaran, Bihar- 845451.
9. Deepak Kumar Tiwari, S/o- Devendra Nath Tiwari, resident of Village- House no.- 131, Village- Pipra, Pipra, D.K Shikarpur, Guanaha, District- West Champaran, Bihar- 845451.
10. Jamila Khatun, W/o- Julfakar Shekh, resident of Bairiya, Ward no.- 14, Bairia, District- West Champaran, Bihar- 845451.
11. Manorma Devi, W/o- Umesh Mahto, resident of Pipriya, Bitharwa, Bhitiharwa Ashram, District- West Champaran, Bihar- 845455.
12. Awadh Bihari Khojavar, S/o- Babulal Khojvar, resident of Dumari, Ward no- 2, Dumari, District- West Champaran, Bihar- 845102.
13. Amrun Nesha Khatun @ Amrun Nesha, W/o Khurshed Ansari, resident of Lachhanauta, Ajhia Serwa, District- West Champaran, Bihar- 845455.

... .. 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, District- West Champaran at Bettiah, Bihar.
4. The District Panchayat Raj Officer, District- West Champaran at Bettiah, Bihar.
5. The Sub Divisional Officer, Narkatiyaganj, West Champaran, Bihar.
6. The Executive Officer cum Block Development Officer, Gaunaha, West Champaran, Bihar.
7. Jaiprakash Paswan, Son of Radheshyam Hazara, Presently Pramukh of the



- Panchayat Samiti, Gaunaha, District- West Champaran, Bihar, The Pramukh of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
8. Amresh Kumar @ Rajesh Garhwal, Son of Devnarayan Guro, Presently Up-Pramukh of the Panchayat Samiti, Gaunaha, Resident of Village- Jamhauri, P.S.- Gaunaha, District- West Champaran, Bihar, The Up- Pramukh of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 9. Anju Devi wife of Kesav Singh, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 10. Manju Kumari, wife of Suraj Kumar, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 11. Manorma Devi, wife of Govind Mahto, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 12. Ruptara Devi, wife of not known to the Petitioner, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 13. Rudra Dev Patwari, son of Thakur Prasad, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 14. Md. Ajimullaish, son of Mohiuddin Ansari, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 15. Bindu Devi, wife of Pramod Sah, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 16. Suhagin Devi, wife of Ramesh Ram, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 17. Nahma Khatun, wife of Abulaish Ansari, The Elected Members of the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.
 18. Ramsanehi Prasad, son of Gauri Shankar Prasad, The Elected Members of



the Block Panchayat Samiti, Gaunaha through the Block Development Officer-cum- Executive Officer, Block Panchayat Samiti, Gaunaha, P.O. and P.S.- Gaunaha, District- West Champaran.

... .. Respondent/s

Appearance :	
For the Petitioner/s	: Mr.Awnish Kumar, Adv. Mr.Vikash Kumar Singh, Adv. Mr.Kumar Gaurav, Adv.
For the Respondent/s	: Mr.Addl. Advocate General (7)

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

5 04-12-2024 Heard the learned counsels for the petitioner as well as the learned counsels for the respondents.

2. Against the order dated 08-04-2024 passed by a coordinate bench of this court in CWJC No. 4133 of 2024, an intra-court appeal bearing LPA No. 408 of 2024 was preferred by respondent no. 1, which was disposed of with the direction that the appellant (respondent nos. 7 and 8 herein) may agitate their points before the appropriate Bench and in pursuance thereof, the present writ petition has been filed.

3. Learned counsel for the Petitioner has submitted that two requisitions, dated 01.01.2024 and 03.01.2024, for convening a special meeting for ‘no-confidence motion’ against the Pramukh (Respondent No. 7) and the Up-Pramukh (Respondent No. 8) respectively were tried to be served upon Pramukh with a copy to the Executive Officer-cum-Block Development Officer. Although the requisitionists/members



tried to personally serve the requisition dated 01.01.2024 and 03.01.2024 for convening a meeting to discuss no-confidence motion against the Pramukh and Up-Pramukh but the Pramukh was trying to escape the service of requisition. The Executive Officer-cum-Block Development Officer had issued notice to the Pramukh on the basis of requisition dated 01.01.2024 and 03.01.2024 to fix a date for consideration of no-confidence motion. The Pramukh (Respondent No. 7), thereafter, fixed the date for special meeting to consider no-confidence motion against himself and also against the Up-Pramukh. The date was 15.01.2024.

4. The case of the petitioners, who are the members of the Panchayat Samiti is that, as the motion was to be moved against respondent Nos. 7 and 8, that is why they forcibly prevented the requisitioning members from participating in the meeting on the fixed date. In this respect, the petitioners filed F.I.R. vide Sahodara P.S. Case No. 4 of 2024, dated 16-1-2024 and an application/*Sanha*, dated 16.01.2024, bearing O.D. No. 23 at the Gaunaha Police Station. The copy of the FIR has been annexed as Annexure P-3 and the copy of *Sanha* has been annexed as Annexure P-4.

5. It is the case of the petitioners that they did not



make themselves absent deliberately rather, due to coercion, duress and pressure created by respondent Nos. 7 and 8, they have been prevented from participating in the special meeting dated 15.01.2024. The learned counsel for the petitioners has submitted that after preventing the petitioners from participating in the meeting, the meeting was convened and without any voting, the meeting was concluded in which 'no-confidence motion' was rejected, saying that no member of the committee was present in the meeting. Further submission of the learned counsel is that due to pressure and coercion of Respondent No. 7 and 8, the petitioners were prevented from participating in the meeting and, it is because they filed a representation before the District Magistrate, West Champaran, on 23rd January, 2024. The representation is annexed as Annexure P-7 to this petition.

6. Since no action was taken by the concerned District Magistrate on the representation of the petitioners, having no option, the petitioners approached the Hon'ble High Court, vide C.W.J.C. No. 4133 of 2024. The coordinate Bench of this Court, vide order dated 8-4-2024 passed in C.W.J.C. No. 4133 of 2024, (Annexure-P-9) directed the District Magistrate to dispose of the representation of the petitioners by exercising his jurisdiction under Section 157 of the Bihar Panchayati Raj Act, 2006



(hereinafter referred as 'Act, 2006'). After order of the coordinate Bench of this Court dated 08.04.2024, the District Magistrate, after giving notice to all the members and giving them opportunity of being heard, passed the order dated 27.04.2024 i.e. (Annexure P-11) and rejected the representation in which a prayer was made by the petitioners for giving permission to convene a fresh meeting. Further submission of the learned counsel is that the District Magistrate, after quoting a circular (letter no. 5743, dated 11-10-2018), rejected the representation, mentioning therein that he was not empowered to direct the Executive Officer to convene a special meeting of the Panchayat Samiti. He has mentioned in his order that the said power is vested in Pramukh, Up Pramukh or the members.

7. Learned counsel for the respondent nos. 7 to 13 has submitted that under the provisions of Section 157 of the Act 2006, the District Magistrate is not vested with the power to convene a meeting. From bare perusal of Section 157 of the Act 2006, it appears that the District Magistrate has no jurisdiction to convene a meeting for considering the no-confidence motion neither he can fix a date for it. The District Magistrate has rightly rejected his representation vide order dated 27.04.2024. Learned counsel has also submitted that second no-confidence



motion is barred, as per provisions of section 44(3)(2) of the Act 2006. He has also submitted that the informant Manju Kumari (Sahodra P.S. Case No. 4 of 2024 dated 16.01.2024) filed an affidavit that on the day of alleged occurrence, she was in Nepal and she did not lodge the FIR.

8. On the other hand, the learned counsel for the petitioner submits that whether a second no-confidence motion can be brought or not, it is not res integra, rather it has been decided by a division bench in the case of ***Dharamsheela Kumari versus Hemant Kumar & Ors (L.P.A. No. 113 of 2020)***, reported in ***2021(3) PLJR 346***. The Hon'ble Division Bench, while deciding issue no. 9 of that case, held that if the first no-confidence motion is concluded without voting, the second no-confidence motion is not barred under Section 44(3) (ii) of Act, 2006, to which the learned counsel for the respondent nos. 7 and 8 replied that the validity of the Division Bench judgment is sub-judiced before the Hon'ble Supreme Court.

9. It is not in dispute that the law laid down by the Hon'ble Division Bench in Dharamsheela's case (supra) is existing till date in which it has been settled that if the first motion is without voting, the second no-confidence motion



cannot be barred.

10. In the present case, the meeting has been convened, but due to pressure of respondent nos. 7 and 8, the meeting could not be reached to its logical conclusion. So in this case, second no-confidence motion is not barred.

11. The petitioners may requisition the second meeting for considering the no-confidence motion, and if the Respondent Nos. 7 and 8 fail to fix a date, the requisitioning members shall themselves fix a date for convening a meeting. The concerned Executive Officer and District Magistrate are made responsible to ensure a free and fair meeting without duress or pressure.

12. With these observations, the writ petition stands disposed of.

(Nawneet Kumar Pandey, J)

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