

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12188 of 2024

Shiv Kumar Singh S/o- Late Ramadhar Singh Resident of village- Ijorbara,
P.S.- Phenhara, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The Director, Panchayati Raj Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Chief Election Officer, East Champaran, Motihari.
4. The Sub-Divisional Officer, Pakadidayal, East Champaran.
5. The Block Development Officer-cum-Executive Officer, Panchayat Samittee, Phenhara, East Champaran.
6. Sri Radheshyam Singh, Prakhand Pramukh, Phenhara Block, Son of Late Raj Mangal Singh, Resident of village- Ibrahimpur Parsauni, P.O.- Ibrahimpur Parsauni, P.S.- Phenhara, District- East Champaran.
7. Smt. Chandani Singh Wife of Sri Santosh Kumar Singh Resident of village- Kalupakar, P.O.- Kalupakar, P.S.- Phenhara, District- East Champaran.
8. Smt. Maya Devi Wife of Sri Kishori Sah Resident of village- Rupauliy, P.O.- Kumharara, P.S.- Phenhara, District- East Champaran.
9. Sri Sanjay Sahani Son of Late Munni Sehani Resident of village- Khanpipra, P.O.- Mathurapur, P.S.- Phenhara, District- East Champaran.
10. Sri Lakhindra Mahto Son of Late Ramekbal Mahto Resident of village and P.O.- Mankarwa, P.S.- Phenhara, District- East Champaran.
11. Sri Bablu Kumar Singh Son of Rajeshwar Prasad Singh Resident of village and P.O.- Phenhara, P.S.- Phenhara, District- East Champaran.
12. Sri Sonu Ram Son of Late Laxman Ram Resident of village and P.O.- Mathurapur, P.S.- Phenhara, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate Mr. Raj Shekhar, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Pd. SC-8 Mr. Sanjay Kumar, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 19-08-2024

Heard the parties.

2. The present writ petition has been preferred for the



grant of following relief/s:-

“(i) For issuance of a writ in the nature of CERTIORARI for quashing of proceeding dated 16/01/2024, wherein, the Block Development Officer -cum- Executive Officer, Panchayat Samittee, Phenhara, East Champaran has illegally and arbitrarily closed the meeting called for considering the motion of No-Confidence without even holding a discussion on the requisition charges of No- Confidence motion or any voting on the same and holding that no any member of Panchayat Samittee has been present in special meeting in a very mechanical manner as the same is in violation of Section 44 and other relevant provisions of the Bihar Panchayat Raj Act, 2006 (herein after referred as Act, 2006) and also in violation of laws laid down by the Hon'ble Patna High Court and also ignoring the submissions made by the members of Panchayat Samittee in a very erroneous



manner.

(ii) For issuance of writ in the nature of mandamus directing the District Magistrate, East Champaran at Motihari and the Block Development Officer-cum-Executive Officer, Panchayat Samittee, Phenara, East Champaran to revive the proceeding dated 16.01.2024, which was illegally and arbitrarily been closed without any discussion or voting on the motion of No Confidence and hold that no Panchayat Samiti member was present during the scheduled time of 11:00 am to 1:00 pm for the special meeting. In the absence of members, the no-confidence motion could not be passed.

(iii) For issuance of writ in the nature of mandamus directing the District Magistrate, East Champaran at Motihari and Block Development Officer-cum-Executive Officer, Panchayat Samittee, Phenara, East Champaran to hold fresh



meeting and hold a vote on motion of No Confidence Motion amongst the members present and hold discussion on the requisition dated 02/11/2024 received notice dated 08.01.2024 containing allegation against the Prakhanda Pramukh of Phenhara Block issued by the members and accordingly declare the result.

(iv) For issuance of writ in the nature of Mandamus for directing and commanding the responsible respondent authorities to hold inoperative the proceeding dated 16.01.2024 during the pendency of this writ application.

(v) For issuance of any other appropriate writ(s), order(s), direction(s) for which the writ petitioner would be found entitled under the facts and circumstances of this case.”

3. The case of the petitioner who is member of the Panchayat Samiti, Phenhara, East Champaran is that pursuant to the requisition made for special meeting to discuss ‘No



Confidence Motion' against 'the Pramukh', 16.01.2024 was fixed when despite there presence, after recording all the members as absent, the respondent No. 5, the Block Development Officer-cum-Executive Officer, Phenhara, East Champaran recorded that the motion stands defeated.

4. The submission is that in the light of the order and judgment passed by the Division Bench in **Dharamsheela Kumari vs Hemant Kumar & Ors. reported in 2021 (3) PLJR 346**, even if everyone was absent and no voting took place, it cannot be considered a concluded meeting and thus, there is no bar for the fresh requisition.

5. Learned counsel for the petitioner has brought attention of this Court to an order passed by this Court in **Lal Babu Paswan vs The State of Bihar & Ors. (CWJC No. 12095 of 2023)** disposed of on 13.08.2024 to submit that they are entitled for fresh requisition.

6. Learned State counsel on the other hand submits that there is nothing on record to show that they have put forward another request for special meeting to discuss 'No Confidence Motion' and the same was rejected necessitating this writ petition.

7. He submits that in the light of **Dharamsheela**



Kumari (supra) judgment, admittedly, no voting took place on 16.01.2024 and as such, it is not a concluded meeting.

8. Learned counsel for the petitioner submits that the members will be taking appropriate steps in accordance with the **Bihar Panchayat Raj Act, 2006** particularly **Section 44 (3)** thereof.

9. Granting said liberty and since there is no further development pursuant to the decision taken on 16.01.2024, this Court cannot move further.

10. The present writ petition stands disposed of.

(Rajiv Roy, J)

Adnan/-

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