

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.930 of 2024

In

Civil Writ Jurisdiction Case No.4945 of 2024

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Fulo Baitha @ Phoolo Baitha S/o Ram Khelawan Baitha R/o Village and P.O.- Kumharauli, P.S.- Kamtaul, District- Darbhanga, Presently Pramukh of Block Panchayat Samiti, Jale, P.O. and P.S.- Jale, District- Darbhanga.

... .. Appellant/s

Versus

1. Lalan Kumar Paswan S/o Bhogi Paswan Elected Member of Block Panchayat Samiti, Jale, P.O. and P.S.- Jale, District- Darbhanga.
2. Aniket Kumar Mishra S/o Murari Mishra Elected Member of Block Panchayat Samiti, Jale, P.O. and P.S.- Jale, District- Darbhanga.
3. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
4. The Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
5. The District Magistrate, Darbhanga, District- Darbhanga.
6. The District Panchayat Raj Officer, Darbhanga, District- Darbhanga.
7. The Sub-Divisional Magistrate, Darbhanga Sadar, District- Darbhanga.
8. The Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, District- Darbhanga.
9. Abdul Rajik S/o Not known to the appellant, Presently Up Pramukh of Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District - Darbhanga.
10. Md. Rizwan S/o Not known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S.- Jale, District- Darbhanga.
11. Nutan Devi W/o Not known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District- Darbhanga.
12. Atima Khatoon W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District- Darbhanga.
13. Ismat Khatoon W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District- Darbhanga.
14. Sheela Devi W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District- Darbhanga.



15. Anchana Kumari W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
16. Sanjay Mandal S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
17. Janki Devi W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
18. Rinki Paswan W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
19. Shahnaz Begum W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
20. Rizwana Praveen W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
21. Babita Kumari W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
22. Sanjay Kumar S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
23. Son Devi W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
24. Bimal Devi W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
25. Md. Dawir S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
26. Sima Kumari W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-



Darbhangha.

27. Jinat Khatoon W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
28. Bikau Paswan S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
29. Viveka Nand Jha S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
30. Anil Bhandari S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
31. Awadhesh Nayak S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
32. Arun Kumar Mishra S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
33. Annu Jha W/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
34. Deepak Kumar Pandit S/o Not Known to the appellant Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.
35. Tahira Khatoon W/o Not Known to the appellant, Elected Member of Block Panchayat Samiti, Jale through the Block Development Officer-cum-Executive Officer, Block Panchayat Samiti, Jale, P.O. and P.S. Jale, District-Darbhangha.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Gyanendra Kumar Shukla, Advocate
For the Respondent/s	:	Mr. Government Advocate 5



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

Date : 18-09-2024

The appellant is the Pramukh, who is concerned with a No Confidence Motion, placed on 20.09.2024, based on a requisition made on 19.08.2024. The challenge is against the judgment of the learned Single Judge which adjudged a No Confidence Motion earlier placed having not been put to vote in the special meeting convened on 04.01.2024; thus not creating an embargo on the second No Confidence Motion, now moved on 19.08.2024.

2. Earlier, a requisition dated 28.12.2023 was given to the Pramukh; for consideration of which a meeting was convened on 04.01.2024. Only five members were present in the meeting convened on 04.01.2024 including the Pramukh and the Up-Pramukh. The No Confidence Motion was recorded as having failed. The writ petitioner challenged the requisition itself on the ground that it is a collusive affair, to ensure that there is no further no confidence motion moved against the Pramukh and the Up-pramukh. The learned Single Judge relying on a judgment of this Court in *Dharamshila Kumari vs. Hemant Kumar & Others [2021(3) PLJR 346]* held that if the



motion had not been put to vote in the meeting convened, there is no bar in a fresh requisition to hold a special meeting to consider a later Non Confidence Motion.

3. Learned Senior Counsel for the appellant however specifically took us to paragraph nos. 121 and 122 of Dharamshila Kumari (supra) in which a similar instance was considered.

4. In Dharamshila Kumari (supra) also, there were two requisitions moved successively. One was placed in the meeting, but however it was not put to vote. When the second requisition came, the same was challenged before the Court which resulted in the judgment. After laying down the principles in paragraph nos. 117 and 118 which are extracted by the learned Single Judge, on the facts coming out in the said case, it was held that the first requisition had to be taken to its logical conclusion, if it had not been put to vote, especially since a second requisition was not permissible.

5. In the present case also, the requisition filed first in point of time was dated 28.12.2023 which is said to have been placed in a special meeting on 04.01.2024. We have seen the resolution produced alongwith Annexure-A Series, in the counter affidavit to the writ petition. It is indicated that the



meeting was convened in the morning of 04.01.2024 when only five members were present. The meeting was hence adjourned to the second half of the day. All the other members, despite notice of the said special meeting having been served, none turned up in the second half also when the No Confidence Motion was considered by the five members present. The resolution also clearly indicates that no voting was carried out but it was recorded that No Confidence motion has failed. In fact, the Dharamshila Kumari (supra) clearly held that the meeting should specifically vote on the resolution and on a majority of the persons present and sitting voting in favour of the No Confidence Motion, it would stand passed. We specifically extract Issue No. IX in paragraph no. 118 of Dharamshila Kumari (supra) :-

“(118.) Issue No.(ix):- In the absence of the motion being put to vote, the legal bar of moving a fresh motion of no confidence stipulated under Section 44(3)(ii) would not be attracted.”

6. As in Dharamshila Kumari (supra), another requisition was moved on 19.08.2024, again for No Confidence Motion, which has been placed for consideration on 20.09.2024. Dharamshila Kumari (supra) in paragraph no. 122, clearly indicated that when the No Confidence Motion has not been put



to vote in the House, then necessarily it has to be taken to its logical conclusion.

7. In such circumstances, the special meeting convened for considering the No Confidence Motion of 19.08.2024, scheduled on 20.09.2024 would stand cancelled. However, the first No Confidence Motion of 28.12.2023 which has not reached its logical conclusion, should be placed in a special meeting to be convened. In the teeth of the controversy existing between the parties and also considering the fact that the requisition has been placed as early as in December, 2023, we issue the following directions.

8. A special meeting will be convened on 03.10.2024; which we constitute on consent of the parties, at 11 a.m. in the Block Headquarters. The No confidence Motion of 28.12.2023 shall be placed and considered in accordance with the binding dictum in Dharamshila Kumari (supra).

9. Considering the totality of the circumstances, we are of the opinion that the Pramukh and the Up-Pramukh, till the No confidence Motion is considered, shall not exercise any financial powers and shall not take any policy decisions.

10. The Executive Officers shall issue notice to all the members of the Panchayat Samiti about the date fixed by



this Court.

11. The appeal stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2024
Transmission Date	

