

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15689 of 2024

1. Jay Kumari Wife of Ramai Ram Resident of Village- Saidpur, P.S.- Ara Muffasil, District- Bhojpur at Ara.
2. Bhagirath Yadav Son of Medhraj yadav Resident of Village- Jamira, P.S.- Ara Muffasil, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchayat Raj Department, Government of Bihar, Patna.
2. The District Magistrate, Bhojpur at Ara.
3. The District Panchayat Raj Officer, Bhojpur at Ara.
4. The Sub-Divisional Officer, Ara, Bhojpur at Ara.
5. The Block Development Officer-cum-Executive Officer, Ara Sadar, Bhojpur.
6. The State Election Commission, Bihar
7. Surya Pratap Singh Son of Dhanraj Singh Resident of Village- Shobhi Dumra, P.S.- Ara Muffasil, District. Bhojpur at Ara.
8. Soni Dubey Wife of Harendra Nath Dubey Resident of Village- Salempur, P.S.- Ara Muffasil, District- Bhojpur at Ara.
9. Rajendra Paswan Son of Pramchand Ram Resident of Sundarpur Barja, P.S.- Ara Muffasil, District- Bhojpur at Ara.
10. Anita Devi Wife of Genda Singh Resident of Village- Behra, P.S.- Ara Muffasil, District- Bhojpur at Ara.
11. Rita Devi Wife of Jendra Pandey Resident of Village- Semariya, P.S.- Ara Muffasil, District- Bhojpur at Ara
12. Anshu Singh Son of Mantu Sing Resident of Village- Ghamar, P.S.- Ara Muffasil, District- Bhojpur at Ara
13. Juli Devi Wife of Mithlesh Kumar Yadav Resident of Village- Jokharpur, P.S.- Ara Muffasil, District- Bhojpur at Ara.
14. Punam Devi Wife of Dilip Kumar Thakur Resident of Village- Khajuriya, P.S.- Ara Muffasil, District- Bhojpur at Ara
15. Ramji Singh Son of Late Vrindawan Singh Resident of Village- Hematpur, P.S.- Ara Muffasil, District- Bhojpur at Ara.
16. Saekhan Khatoon Wife of Jakir Hussain Resident of Village- Khusihalpur, P.S.- Ara Muffasil, District- Bhojpur at Ara.
17. Birendra Kahar Son of Baban Kahar Resident of Village- Sukulpura, P.S.- Ara Muffasil, District- Bhojpur at Ara.
18. Hare Krishna Prasad Son of Late Madodar Sah Resident of Village- Dhobaha, P.S.- Ara Muffasil, District- Bhojpur at Ara.
19. Lal Babu Prasad Son of Ganga Prasad Resident of Village- Bakhariya, P.S.- Ara Muffasil, District- Bhojpur at Ara.



- 20. Suman Devi Wife of Munna Yadav Resident of Village. Bela, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 21. Surendra Singh Son of Late Ramayan Singh Resident of Village- Basantpur, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 22. Balram Ram Son of Late Hardev Rai Resident of Village- Ratanpur, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 23. Anand Yadav Son of Muniraj Yadav Resident of Village- Sandiya, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 24. Sushila Dei Wife of Dharmendra Ram Resident of Village- Pipra, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 25. Minta Devi Wife of Kamlesh Chaudhary Resident of Village- Makhdumpur Dumra, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 26. Sonajhari Devi Wife of Jagnarayan Yadav Resident of Village- Dhudhua, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 27. Janardan Gond Son of Jhakad Gond Resident of Village- Mahkam Purbara, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 28. Rajesh Singh Son of Janardan Singh Resident of Village- Bhakura, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 29. Priyanka Kumari Wife of Lallu Yadav Resident of Village- Jamira, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 30. Anand Sharma Son of Ram Vinay Sharma Resident of Village- Alipur, P.S.- Ara Muffasil, District- Bhojpur at Ara.
- 31. Satyendra Kumar Son of Rudal Bind Resident of Village. Gothhula, P.S.- Ara Muffasil, District- Bhojpur at Ara.

... .. Respondent/s

Appearance :		
For the Petitioner/s	:	Mr. Sudhir Kumar Singh, Advocate
For the State	:	Mr. Sushil Kr., GP-22
	:	Mr. K.K. Singh, AC to GP-22
For the Resp. No.7	:	Mr. Manoj Kumar, Advocate
For the SEC	:	Mr. Ravi Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
Date : 08-10-2024

Heard Mr. Sudhir Kumar Singh duly assisted by
Mrs. Bandana Singh, learned counsel for the petitioner and Mr.
Manoj Kumar has suo moto appeared on behalf of the
respondent no.7.



2. Learned counsel for the petitioner undertakes to provide a copy of the petition in course of the day.

3. The present writ petition has been preferred for the grant of following reliefs:-

(i) For quashing of requisition dated 26.09.2024 filed by 16 members of Sonpur Block Panchayat Ara Sadar, District- Bhojpur at Ara address to the petitioner No. 1 by which the petitioner No. 1 has requested to call for the special meeting for considering the no confidence motion against the petitioner and Uppramukh of Sonpur Block Panchayat Samiti, District- Saran in terms of provision made in Section 44 (3) (ii) of Bihar Panchayati Raj Act.

(ii) For during pendency of the present writ application any proposed special meeting to consider no confidence motion against the petitioner may be kept in abeyance.

(iii) For any other relief/s for which the petitioner may found to be entitled within the facts and circumstances of this case.

4. The case of the petitioners, the 'Pramukh' and 'Up-Pramukh' of Ara Sadar Block Panchayat Samiti, Bhojpur is/are that earlier, the 'No Confidence Motion' was taken up on 12.01.2024 but since no one appeared, it was recorded as failed.

5. In that background, the fresh requisition made by



the 16 members out of 27 members of the Panchayat Samiti has to be interfered with inasmuch as when no voting took place in the first meeting, the same be taken to its logical conclusion. According to him, the date of the second meeting has been fixed as 15.10.2024.

6. He relies on the judgment of **Fulo Baitha vs. Lalan Kumar Paswan and Ors. (LPA No. 930 of 2024)** by which the **Division Bench of Patna High Court** in paragraph nos. 6 to 11 observed as follows:-

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.

7. He submits that they have no grievance if the first meeting is revived and taken to its logical conclusion by way of voting.

8. As stated, Mr. Manoj Kumar has already appeared on behalf of the respondent no.7, one of the member of the Panchayat Samiti, Ara Sadar. He submits that there is no fault in calling for the second meeting when the first meeting came to an end without voting in view of the order passed by the another



Division Bench in **Dharamsheela Kumar vs. Hemant Kumar and Ors.** reported in **2021(3) PLJR 346** wherein it was recorded that in paragraph no.118 as follows:-

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.

9. Learned counsel appearing on behalf of the respondent no.7, submits that earlier he had appeared in **CWJC No. 2331 of 2024 (Surya Pratap Singh vs. State of Bihar)** in which the coordinate Bench had taken note of high handedness attitude of the respondent authorities especially the Block Panchayat Raj Officer, Piro, Bhojpur and thereafter, the Court had disposed of the matter directing the District Magistrate, Bhojpur at Ara to dispose of the petition of the petitioner. Secondly, he also preferred **CWJC No. 6593 of 2024** for fixing the date which was withdrawn on **07.10.2024** in view of the fact that a date has already been fixed.

10. He however submits that when the petitioners are now relying on another Division Bench Judgment of **Fulo Baitha** (supra), the members of the Panchayat Samiti do not have any objection whether the meeting takes place pursuant to



the second requisition on 15.10.2024 or first requisition after a fortnight.

11. Having heard the parties and perusing the facts, the order of Division Bench, this Court also follows the route of the order passed by a Division Bench of Patna High Court in **Fulo Baitha** (supra) and observes that considering paragraph no.122 of the same **Dharamsheela Kumari** (supra) judgment where it has been recorded that when the 'No Confidence Motion' has been put to vote in the House, it has to be taken to its logical conclusion. Admittedly, pursuant to the second requisition a date has been fixed on 15.10.2024, the same accordingly stands canceled.

12. However, the first requisition dated 29.12.2023 having not taken to its logical conclusion, the same stands revived. It has to be taken up in a fresh meeting following all the legal procedure of issuance of notices upon all the panchayat members. Both the petitioners, the respondent no.7 as also the State have agreed that after a fortnight, the meeting can be held on 27.10.2024 (Sunday) at 11:00 AM.

13. In that background, the writ petition stands disposed of with a direction to the respondents especially the respondent no.2, The District Magistrate, Bhojpur at Ara to see



to it that the respondent no.5, the Block Development Officer-cum-Executive Officer, Ara Sadar, Bhojpur acts strictly in accordance with law following the judgment of the Division Bench in **Fulo Baitha** (supra) and ensure that the **notice along with the charges** as was made by the requisitionists on 29.12.2023 is/are served upon all the members and thereafter meeting is held on 27.10.2024 at 11:00 AM.

14. The writ petition stands disposed of.

(Rajiv Roy, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.10.2024
Transmission Date	

