

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14910 of 2024

Vaidyanath Roy Son of Mahendra Roy, Resident of Village- Bhagwanpur Desua, Ward No. 2, Block and P.S.-Ujiyarpur, District-Samastipur.

... .. 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 State Election Commission (Panchayat) Sone Bhawan, Bir Chand Patel Path, Patna through its Secretary.
4. The State Election Commissioner, the State Election Commission (Panchayat), Sone Bhawan, Bir Chand Patel Path, Patna, Bihar.
5. The Secretary, the State Election Commission (Panchayat), Sone Bhawan, Bir Chand Patel Path, Patna, Bihar.
6. The Distirct Magistrate, District-Samastipur.
7. The Panchayat Samiti, Block-Ujiyarpur, District-Samastipur through its Executive Officer.
8. The Executive Officer-Cum-Block development Officer, Block-Ujiyarpur, District-Samastipur.
9. Smt. Ranju Kumari, Member of Panchayat Samiti, Constituency No.11 through the Executive Officer, Panchayat Samiti, Block-Ujiyarpur, District-Samastipur.
10. Sri Pramod Kumar Rai, Member of Panchayat Samiti, Constituency No. 24 through the Executive Officer, Panchayat Samiti, Block-Ujiyarpur, District-Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ujjwal Kumar, Advocate Ms. Jyoti Kumari Sinha, Advocate
For the State	:	Mr. Nadim Seraj, GP- 5 Ms. Shalini, AC to GP- 5
For the S.E.C.	:	Mr. Girish Pandey, Advocate
For Respondent No. 9	:	Mr. Mithilish Kumar, Advocate Mr. Fazle Karim, Advocate



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

Date : 28-03-2025

The present PIL has been filed by an erstwhile member of a particular *Panchayat Samiti*, claiming that he has now no personal interest in the present litigation, for the relief of issuance of a general direction to the respondent/authorities to restrain such members of the *Panchayat Samiti* from contesting elections again for the post of *Pramukh and Up-Pramukh*, who have, only in the immediate past, been removed from the said post in the same tenure of *Panchayat Samiti* on a no confidence motion having been passed against them under Section 44(3) of the Bihar Panchayat Raj Act, 2006 (*in short, the Act of 2006*).

2. It appears that the *Pramukh and Up-Pramukh* of the concerned *Panchayat Samiti* were removed by the process of no confidence, whereafter in



accordance with Section 40(1)(b) of the Act of 2006, one of the persons was again elected as *Pramukh*.

3. We are afraid whether this could be agitated in a Public Interest Litigation with no other instance of such persons being appointed again after vacancies were created on their having been removed by vote of no confidence.

4. Under Section 40 of the Act of 2006, if any subsequent vacancy is caused in the office of *Pramukh* or *Up-Pramukh*, the elected member of *Panchayat Samiti* would elect another member from amongst themselves to be the *Pramukh* or *Up-Pramukh* as the case may be.

5. There is no specific intendment in the afore-noted provision that another member seeking election would not be the person who has been removed in a no-confidence motion in the same tenure of the *Samiti*, but it is debatable whether such person contesting election in the same transaction, would be in keeping with



the spirit of the Panchayat Raj Act.

6. Nonetheless, the question is whether with respect to a particular incident of re-election of a person as *Up-Pramukh* in a *Panchayat Samiti* an erstwhile member of the same *Samiti*, who may or may not have voted in the “no confidence motion” can maintain a Public Interest Litigation in that regard.

7. Only for the purposes of encouraging genuine and *bonafide* PIL and discouraging PIL filed for extraneous considerations, it would be obligatory on the part of the Bench hearing the petition to assess and verify whether, *prima facie*, the issue raised in the petition is not by an interested person.

8. The petitioner, no doubt, will have the authority and the competence to challenge such election, but in a different forum, perhaps, before the State Election Commission or otherwise, but never by way of a Public Interest Litigation.

9. We are convinced that this is not a Public



Interest Litigation, but only a vested interest litigation
and, therefore, we refuse to entertain this petition.

10. The petition is, accordingly, dismissed.

11. Interlocutory application/s, if any, also
stands disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Sauravkrsinha/
Praveen-II-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.04.2025
Transmission Date	NA

