

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.359 of 2024

In

Civil Writ Jurisdiction Case No.4313 of 2024

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Bashid Ahmad, son of Irshad Ahmad, Resident of village- Kunali, Supaul, Kunali Bazar, District - Supaul, Bihar -847451.

... ... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.
3. The Director, Panchayati Raj Department, Government of Bihar, Patna.
4. The District Magistrate, Supaul.
5. The District Panchayat Raj Officer, Supaul.
6. The Sub- Divisional Officer, Nirmali, Supaul.
7. The Executive Officer, Panchayat Samiti -cum- Block Development Officer, Nirmali, Supaul.
8. The Deputy Development Commissioner (DDC), Supaul.
9. Ram Pravesh Prasad Singh, son of not known to the petitioner at present Member Panchayat Samiti (Panchayat Samiti Kshetra No.04), Supaul.
10. Hareram Mehta, son of not known to the petitioner, at present Member Panchayat Samiti (Panchayat Samiti Kshetra No.02), Supaul.
11. Mamta Devi, wife of not known to the petitioner, at present Member Panchayat Samiti (Panchayat Samiti Kshetra No.06), Supaul.
12. Chandrakala Devi, wife of not known to the petitioner, at present Member Panchayat Samiti (Panchayat Samiti Kshetra No.10), Supaul.
13. Bibi Maryam, wife of not known to the petitioner, at present Member Panchayat Samiti (Panchayat Samiti Kshetra No. 03), Supaul.

... ... Respondent/s

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- *Bihar Panchayat Raj Act, 2006 – Bihar Panchayat Raj Act, 2006 – Section 43 – five out of eight member submitted the requisition to the Pramukh – meeting as is permitted under Section 44(3) – both Pramukh and Up Pramukh failed to convene the meeting - Section 44 – No Confidence Motion moved against Pramukh – Prakhand panchayat Samiti.*
 - *Submission on behalf of the appellant or the learned counsel appearing for the appellant - deliberate falsehood in memorandum of appeal – an obvious and blatant attempt to mislead the Court - repeated the falsehood with temerity, before this Court, which we feel is a deliberate attempt to mislead this, Court. Submission for the*

appellant that it was his mistake, which he should not have committed as an officer of the Court.

- *Mere owning up of a mistake by the counsel will not absolve the litigant from the deliberate attempt to mislead this, Court. In the totality of the circumstances, especially noticing the shaky contentions taken in the writ petition, which has been unscrupulously repeated in the appeal - cost of Rs. 50,000/- (fifty thousand) on the appellant imposed.*

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... .. Respondent/s

Appearance :

For the Appellant/s : Mr. S.B.K. Mangalam, Advocate
Mr. Awnish Kumar, Advocate
For Respondent Nos. 9 to 13 : Mr. Amit Shrivastava, Sr. Advocate
Mr. Ranjeet Choubey, Advocate
For State Election Commission: Mr. Ravi Ranjan, Advocate
For the State : Mr.Government Advocate 05



CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-04-2024

The appellant is the Pramukh of the Prakhand Panchayat Samiti, Nirmali, against whom a No Confidence Motion was moved, which was considered and voted in favour by a majority of six members on 11.03.2024; upheld by the impugned judgment.

2. On the brief facts to be noticed, a No Confidence Motion was directed against the Pramukh and the Up Pramukh; the second of whom has not approached this Court nor has she participated in the meeting. The No Confidence Motion was dated 03.01.2024 and it was submitted to the Pramukh and the Executive Officer on 15.01.2024. The appellant herein had approached this Court with CWJC No. 402 of 2024 in which there was a direction to the District Magistrate, Supaul to hear both the Pramukh, the Up Pramukh and the other members and arrive at a decision. The District Magistrate by order dated 22.02.2024 directed the Executive Officer to hold a special meeting in



accordance with Section 44 of the Bihar Panchayat Raj Act, 2006. The requisitionists who were six in number out of the total eight members of the Panchayat Samiti had fixed the special meeting on 11.03.2024 in accordance with Section 44(3); when neither the Pramukh nor the Up Pramukh carried out their statutory duty to fix a date for the special meeting to consider the No Confidence Motion. On 11.03.2024, both the Pramukh and the Up Pramukh failed to appear and the No Confidence Motion was carried with all the members present and voting which was also the majority of the members of the Samiti.

3. The petitioner in the present case pointed out that there was clear violation of principles of natural justice and that the allegations in the No Confidence Motion were vague and unclear.

4. Learned Senior Counsel appearing for the Respondents 9 to 13 Shri Amit Srivastava on the other hand pointed out from the appeal that the appellant who was the Pramukh had abdicated his powers under the Panchayati Raj Act to convene a special meeting for the purpose of consideration of No Confidence. The learned Senior



Counsel specifically pointed out that the averments in the appeal which is supported by an affidavit indicate the contention taken by the appellant that the requisition signed by five elected members of the Panchayat Samiti was directly submitted in the office of the Executive Officer-cum-Block Development Officer and never presented before the appellant. In the synopsis, reference was made to Paragraph 7 of the memorandum which repeated the above contention. Learned Senior Counsel alertly pointed out from Annexure-P-3, the requisition produced by the appellant himself in the writ petition that he had received the same on 29.12.2023. The acknowledgment is seen from the endorsement made on Annexure-P-3, by hand, on 29.12.2023 at 11.30 A.M. The learned Senior Counsel points out that this is a deliberate falsehood.

5. Learned counsel appearing for the appellant Shri S.B.K. Mangalam then sought for withdrawal of the appeal on the ground that the contention was taken erroneously and it was a mistake by the counsel.

6. We are not satisfied that the appellant or the learned counsel appearing for the appellant can seek for



such withdrawal after making such deliberate falsehood in the memorandum of appeal, an obvious and blatant attempt to mislead the Court.

7. Before we consider the same, we have to look at the facts of the case which indicate that five out of the eight members which satisfies the coram as required under Section 43 had submitted the requisition to the Pramukh, Up Pramukh and the Executive Officer. Once a writ petition was taken by the Pramukh against the requisition in which a direction was issued to the District Collector to consider the matter in compliance of which the District Collector convened a meeting on 22.02.2024 and passed an order. The requisitionists themselves convened a meeting, as is permitted under Section 44(3) since both the Pramukh and the Up Pramukh failed to convene the meeting. In the said meeting, the No Confidence Motion was carried with a thumping majority of all persons present and voting who are also the majority of the members of the Samiti.

8. The Motion was moved and carried with the majority who comprised the entire members who participated, being six in number, out of the eight total



members; the Pramukh and the Up Pramukh being absent. The No Confidence Motion has to be considered as carried and the appellant, the Pramukh or the Up Pramukh cannot hold office after the same.

9. In so far as the allegation raised against the appellant with respect to the averments made in the appeal, we have to specifically notice that in the impugned judgment in Paragraph 17 the learned Single Judge had specifically noticed that the petitioner was acquainted with the charges; having brought the requisition on record in the writ petition along with the letter of the Executive Officer which had communicated the date of the special meeting fixed on 11.03.2024 for considering the No Confidence Motion. Again, the impugned judgment in Paragraph 18 noticed that despite the Pramukh having chosen to file his written objection on 22.02.2024, he asserts that no notice was served upon him and also that he had not chosen to communicate the convening of the meeting to the Up Prakukh. Despite these observations in the impugned judgment, again the appellant repeated the falsehood with temerity, before this Court; which we feel is a deliberate



attempt to mislead this Court. We are not happy with the submission of the learned counsel for the appellant that it was his mistake; which he should not have committed as an officer of the Court. Mere owning up of a mistake by the counsel will not absolve the litigant from the deliberate attempt to mislead this Court. In the totality of the circumstances, especially noticing the shaky contentions taken in the writ petition, which has been unscrupulously repeated in the appeal, we impose a cost of Rs. 50,000/- (fifty thousand) on the appellant.

10. We impose the cost especially noticing that the appellant was elected as a Pramukh by the people of the Panchayat reposing confidence in him which obliges the people's representative to act with more probity and especially considering the confidence reposed in him by his voters. We direct the cost to be paid within a period of one month to the Bihar State Legal Services Authority, failing which the BSLSA would be entitled to proceed for recovery of the said amounts from the appellant by way of proceedings initiated through the District Magistrate as is proceeded with in the recovery of any revenue due on land.



11. We have already found that the No Confidence Motion was carried and in such circumstances, the appeal would stand rejected with exemplary costs as directed hereinabove.

12. Interlocutory Application(s), if any, shall stand closed.

13. A copy of the certified copy of judgment to be forwarded to Member Secretary, Bihar State Legal Services Authority.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

P.K.P./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	22.04.2024
Transmission Date	

