

**Chinta Devi Vs. State of Bihar and ors.**

**Chinta Devi Vs. State of Bihar and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/134118](http://sooperkanoon.com/134118)

**Court :** Patna

**Decided On :** Jul-14-2004

**Judge :** Chandramauli Kumar Prasad, J.

**Acts :** Bihar Panchayat Raj Act, 1947 - Sections 44(4)

**Appeal No. :** CWJC No. 765 of 2003

**Appellant :** Chinta Devi

**Respondent :** State of Bihar and ors.

**Advocate for Def. :** Shantanu Kumar JC to SC VI

**Advocate for Pet/Ap. :** Sanjay Kumar Verma, Adv.

**Disposition :** Application allowed

**Judgement :**

**Chandramauli Kr. Prasad, J.**

1. This application has been filed for quashing the resolution dated 7.1.2003 of the Panchayat Samiti, Tarari whereby motion of no confidence has been carried out against the petitioner.

2. Shorn of unnecessary details facts giving rise to the present application are that the petitioner happens to be the Pramukh of Panchayat Samiti, Tarari. A

requisition to convene the special meeting to consider the no confidence motion was given to her. For one or the other reasons, she did not convene the special meeting and thereafter 13 members decided to call the meeting on 31.12.2002 and requested the Executive Officer of the Panchayat Samiti to issue notice. In compliance of the said order, the Executive Officer of the Panchayat Samiti sent notice dated 1.1 2003 intimating to the members that 7.1.2003 is the date fixed for holding the special meeting to consider the no confidence motion against the petitioner. The meeting as directed was held and no confidence motion was passed against the petitioner.

3 Mr. Verma, appearing on behalf of the petitioner, raises a very short point. He submits that the notice does not conform to the requirement of seven days clear notice as provided under Section 44 (4) of the Bihar Panchayat Raj Act. He points out that notice was sent on 1.1.2003 whereas the date of the meeting fixed was 7.1.2003 and thus, notice did not give seven clear days for holding the special meeting. In support of his submission, he has placed reliance on a judgment of this Court in the case of Smt. Rambha Sinha v. The State of Bihar and Ors., 2004 (2) PLJR 629 and my attention has been drawn to the following passage of para-8 of the said judgment which reads as follows :

'8. x x x Here the Legislature itself has used the expression 'seven clear days notice.' In case I hold that one of the days is to be reckoned inclusive and the other exclusive I shall be held guilty of rendering the words used by the Legislature superfluous. It is sound principle of interpretation that the Legislature is deemed not to waste its words or to say anything in vain and the Court while considering the provision shall not lean towards a construction which renders the words used by the Legislature redundant except for compelling reason. To brush aside words in a statute is not a sound principle of construction and effort has to be made to give meaning to each and every words used by the legislature. Here the legislature has used the word seven clear days notice and from that its integtion is clear that the day on which the notice is sent and the day on which the meeting is held, have to be excluded for computing seven clear days. The Legislature in its wisdom has provided for seven clear days notice so as to enable the elected representatives to deliberate and defend the motion. Therefore, on first principle I

am of the opinion that for computing seven clear days the day on which the notice is issued and the date of meeting shall be excluded.'

4. In spite of service of notice on respondent Nos. 8 to 52, although a vakalatnama has been filed on behalf of respondent nos. 20 and 21 but when the matter is taken up, no body appears on their behalf.

5. JC to SC VI appears on behalf of respondent Nos. 1 to 7.

6. Having appreciated the rival submission, I find substance in the submission of Mr. Verma. In view of the fact that seven clear days notice for the special meeting was not given, the motion of no confidence passed against the petitioner has to be held to be illegal.

7. Now the question is what relief the petitioner is entitled. It is common ground that during the pendency of the application, a member has been elected as Pramukh.

8. In the peculiar facts of the present case, I am of the opinion that the petitioner shall not be inducted as the Pramukh till a fresh decision on the motion of no confidence is taken. Hence, I direct the Executive Officer to issue a notice for holding the special meeting of the Panchayat Samiti giving clear seven days, within two weeks from the date of receipt of a copy of this judgment to consider the no confidence motion against the petitioner and in case, the same is defeated, petitioner shall be inducted and the member who has been elected as Pramukh, during the pendency of the election, shall vacate the office and petitioner shall continue to function as the Pramukh of the Panchayat Samiti. However, in case, the motion is carried out by required majority member elected as Pramukh shall continue as the Pramukh. For the purpose of the said meeting, the petitioner shall be deemed to be Pramukh and shall exercise all such powers conferred on the Pramukh and on that date, the status of person elected subsequently shall not be of Pramukh.

Application stands allowed in the aforesaid terms. No cost.