

Court No. - 6

Case :- WRIT - C No. - 26803 of 2023

Petitioner :- Smt. Shakuntala Devi

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Madhusudan Dikshit, Anil Kumar Bajpai

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Manju Rani Chauhan, J.

The impleadment application has been filed by Mr. Ram Chandra Solanki, Advocate, in Court today, which is taken on record.

In Re: Civil Misc Impleadment Application

1. The impleadment application has been filed by Mr. Ram Chandra Solanki, Advocate, on behalf of Viresh Singh, to implead him as respondent no.4, in the array of parties.
2. Learned counsel for the petitioner as well as learned Standing Counsel submit that in view of the judgement passed in **Narendra Kumar vs. State of U.P. and Ors.** reported in **2013(1) ADJ 228**, complainant has no right to file such impleadment application.
3. Accordingly, the impleadment application is **rejected**.

Order on Petition

1. Heard Mr. Anil Kumar Bajpai, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.
2. The writ petition has been filed by the petitioner with a prayer to quash the order dated 27.07.2023 passed by respondent no.2 and further prayer to direct the respondent nos.2 & 3 not to constitute a three member committee as per order dated 27.07.2023.
3. Brief facts of the case are; the petitioner was elected as Pradhan of Gram Panchayat Dhanua, Block Jashwant Nagar,

District Etawah. On the basis of some complaint dated 15.05.2023, the District Panchayat Raj Officer was directed to get a spot enquiry conducted, the report of which, was submitted on 17.05.2023. Relying upon the aforesaid report, a show cause notice dated 25.05.2023 was issued to the petitioner. The petitioner refused to receive the aforesaid notice, therefore, the same was placed on notice board of Panchayat Ghar. Despite passage of ample time, no reply was submitted by the Pradhan. Earlier the D.P.R.O. had also conducted an inspection on 29.11.2023 and the report was placed on 02.01.2023, relying upon which, show cause notice was submitted to the petitioner-Pradhan on 17.01.2023, but no reply was submitted, therefore, the order impugned has been passed.

4. Learned counsel for the petitioner submits that all the enquiry reports do not show that any financial loss has been caused by the Pradhan while doing the development work. He further submits that the order impugned has been passed presuming that non submission of the reply to the show cause notice would amount to acceptance on the part of the petitioner with respect to allegations as made in the complaint, which is against the principle of natural justice. Emphasising on page 35, he submits that the present enquiry has been conducted behind the back of the petitioner in a biased manner and such an ex-parte report has been placed, as the petitioner had earlier made a complaint against the D.P.R.O. Therefore, the impugned order cannot be sustained and is liable to be set aside. In support of his submission, he has relied upon full Bench judgement of this Court passed in **Vivekanand Yadav Vs. State of U.P. and another, [2010 (10) ADJ 1 (FB)]**.

5. Learned Standing Counsel, on the basis of instructions, submits that a proper notice was given to the petitioner, however, he could not dispute the fact that non submission of reply by the petitioner to the show cause notice would amount to the acceptance of the charges as levelled against him in the complaint.

6. I have very carefully examined the submissions made by the learned counsel for the parties and perused the impugned order as well as the other materials brought on record.

7. Under such circumstances, the impugned order dated 27.07.2023 passed by the respondent no.2 is **set aside**.

8. It is open to the authorities concerned to give a fresh show cause notice to the petitioner, within a week from today. The petitioner shall submit his reply within two weeks thereafter, and an appropriate order shall be passed by the authority concerned, in accordance with law, after considering the reply of the petitioner, by means of a reasoned and speaking order, as expeditiously as possible, preferably within a period of one month, from the date of filing of reply by the petitioner.

9. With the aforesaid observations/directions, the writ petition stands **allowed**, accordingly.

Order Date :- 17.10.2023

Rahul.