

Court No. - 6

Case :- WRIT - C No. - 30643 of 2023

Petitioner :- Harendra Ram

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Pankaj Kumar Ojha, Seemant Singh

Counsel for Respondent :- C.S.C., Jai Prakash Singh, Krishna Madhaw Pandey

Hon'ble Mrs. Manju Rani Chauhan, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondent.

2. This writ petition has been filed by the petitioner with a prayer to quash the order dated 04.08.2023 passed by respondent no. 3-District Magistrate, Ghazipur and order dated 11.08.2023 passed by respondent no. 4-District Panchayat Raj Officer, Ghazipur by which financial and administrative power of the petitioner has been seized as Village Pradhan of village Manjhanpur Kala, Post Chauja Khas, District Ghazipur.

3. Learned counsel for the petitioner submits that petitioner was elected as Gram Pradhan of village Manjhanpur Kala, Post Chauja Khas, District Ghazipur on 03.05.2021. It appears that on some complaint a committee of Upayukt Shram Rojgar, Ghazipur and Sri Niraj, Sahayak Abhiyanta, Gramin Abhiyantran Vibhag, Ghazipur was constituted by Chief Development Officer, Ghazipur by letter dated 10.04.2023 annexed at page no. 40 of writ petition. The aforesaid committee has submitted its report on 17.04.2023, which is annexed at page no. 42 of writ petition. Relying upon the aforesaid report, the Chief Development Officer, Ghazipur by letter dated 21.04.2023 placed the aforesaid report before the District Magistrate. On 14.06.2023 and 04.07.2023, show cause notice has been issued to the petitioner to which petitioner has submitted a detailed reply, on which order impugned has been passed. Hence, the present petition.

4. It is further submitted that committee has been constituted by the Chief Development Officer, Ghazipur by its letter dated 10.04.2023 deputing three persons, who has submitted their report on 17.04.2023. Relying upon which, the order impugned has been passed. The letter dated 10.04.2023 by which the Chief Development Officer, Ghazipur has constituted a three

membercommittee to conduct preliminary enquiry mentioning about some order dated 28.02.2023 passed by the District Magistrate. However, there is no whisper about such order impugned dated 04.08.2023, which goes to show that impugned order has been passed in violation of provisions of U.P. Panchayat Raj Rules of 1947. So when the matter was taken up on 30.10.2023, learned Standing Counsel has been granted time to obtain instructions in respect of letter dated 28.02.2023 as issued by the District Magistrate, which is at page no. 40 of writ petition. On the basis of instructions as placed on record, learned Standing Counsel has placed letter dated 21.04.2023 of Chief Development Officer, wherein the District Magistrate has directed to conduct an enquiry and to proceed in accordance with law for recovery which has to be made against the Pradhan. The order finds mention on top of the page and it is date of 24.04.2023.

5. From the aforesaid, it is clear that there is no order of District Magistrate dated 28.02.2023 nominating any district level officer or District Panchayat Officer to conduct preliminary enquiry relying upon which order impugned has been passed. From the instructions as placed on record, it is clear that order of District Magistrate is of 24.04.2023 therefore, preliminary enquiry report dated 17.04.2023 could not have been relied upon which is prior to the order passed by the District Magistrate. Hence, order impugned is against the provisions of U.P. Panchayat Raj Rules, 1947, and not in accordance with law, as such, same is liable to be set aside.

6. Learned Standing Counsel for the State-respondent could not dispute the aforesaid facts.

7. In view of above, the impugned orders dated 04.08.2023 passed by respondent no. 3-District Magistrate, Ghazipur and order dated 11.08.2023 passed by respondent no. 4-District Panchayat Raj Officer, Ghazipur, are set aside.

8. However, it is open to the authorities concerned to proceed in accordance with law as well as provisions of U.P. Panchayat Raj Rules, 1947.

9. The writ petition stands **allowed**.

Order Date :- 11.12.2023

Vibha