

**Court No. - 6**

**Case :-** WRIT - C No. - 32991 of 2023

**Petitioner :-** Tulsi

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Kushmondeya Shahi, Mahesh Kumar

**Counsel for Respondent :-** C.S.C., Bhagwan Das

**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 16.08.2023 passed by respondent no. 2-Commissioner Jhansi, Region Jhansi as well as the order dated 15.12.2022 and 27.01.2023 passed by respondent no. 3-District Magistrate, Lalitpur by which financial and administrative power of the petitioner has been seized.

3. Learned counsel for the petitioner submits that petitioner was elected as Gram Pradhan of Gram Panchayat, Ramgarh, Block and Tehsil Madawara, District Lalitpur in Panchayat Election 2020. It appears that on some complaint an enquiry was directed to be conducted by Assistant Engineers in pursuance of the orders passed by Chief Development Officer by letters dated 02.05.2022 and 11.07.2022. Relying upon such preliminary enquiry report, conducted by Assistant Engineers after giving a show cause notice, order impugned has been passed. Hence the present petition.

4. It is further submitted that as per Rule 2(c) of U.P. Panchayat Raj (Removal of Pradhans, Up-Pradhans and Members) Enquiry Rules, 1997 a preliminary enquiry has been conducted by District Panchayat Raj Officer or any other District Level Officer nominated by District Magistrate. Perusal of order goes to show that no such officer has been nominated by District Magistrate and it is the Chief Development Officer, who has constituted a committee of two Assistant Engineers to conduct preliminary enquiry, hence, the impugned orders have been passed in violation of provisions of U.P. Panchayat Raj Rules, 1947, and same is liable to be set aside.

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

6. In view of above, the impugned orders dated 16.08.2023 passed by respondent no. 2-Commissioner Jhansi, Region Jhansi as well as the order dated 15.12.2022 and 27.01.2023 passed by respondent no. 3-District Magistrate, Lalitpur, are set aside.

7. However, it is open to the authorities concerned to proceed on complaint made against Pradhan of Gram Panchayat, Ramgarh, Block and Tehsil Madawara, District Lalitpur in accordance with provisions of U.P. Panchayat Raj Rules, 1947, after giving proper notice and opportunity of hearing to the petitioner.

8. The writ petition stands **allowed**.

**Order Date :-** 11.12.2023

Vibha