

Court No. - 6

Case :- WRIT - C No. - 34510 of 2023

Petitioner :- Smt. Sabri Begum

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

Counsel for Petitioner :- Punit Kumar Gupta, Poorva Agarwal

Counsel for Respondent :- C.S.C, Santosh Kumar Shukla

Hon'ble Mrs. Manju Rani Chauhan, J.

1. Petitioner has preferred the instant writ petition assailing the validity of an order dated 04.09.2023 passed by second respondent/ District Magistrate, Rampur, vide which financial and administrative powers of the petitioner have been ceased. A further prayer has been made in the writ petition to direct the respondent authorities to restore the powers of the petitioner as Gram Pradhan, Gram Panchayat Khandia, Block Saidnagar, Tehsil Sadar, District Rampur.

2. Learned counsel for the petitioner submits that the petitioner was elected as Gram Pradhan, Gram Panchayat Khandia, Block Saidnagar, Tehsil Sadar, District Rampur. On a complaint made by one Dhyan Singh, the District Magistrate appointed an enquiry officer as required under Rule-2(c) of the Uttar Pradesh Panchayat Raj (Removal of Pradhans, Up-Pradhans and Members) Enquiry Rules, 1997¹ read with Section 95(1)(g) of the U.P. Panchayat Raj Act, 1947² to conduct an enquiry. An enquiry report was submitted on 29.08.2022 before the District Magistrate, on which a show cause notice dated 21.09.2022 was issued to the petitioner, to which she submitted a detailed reply dated 13.10.2022 and after recording prima facie satisfaction that the petitioner has not constituted proper committees and has failed to perform her duties, order impugned ceasing financial and administrative powers of petitioner Pradhan has been passed, hence the present writ petition.

1 The Rules, 1997

2 The Rules, 1947

3. Learned counsel for the petitioner submits that the allegation in the complaint is only with respect to non-constitution of committees as required under law, therefore, the impugned order ceasing financial and administrative powers of Pradhan should not have been passed as the provisions of Section 95(1)(g) of the Act, 1947 provides that if in the enquiry the petitioner is prima facie found to have committed financial and other irregularities, her financial and administrative powers shall be ceased. In the present case there is no whisper in the order impugned as to what financial and administrative irregularity has been committed by the petitioner while there is only allegation of non-constitution of committees as required under law, therefore, the order is liable to be set aside.

4. Learned Standing Counsel, on the other hand, relied upon the provisions of Sections 95(1)(g), 2 & 3 of the Act, 1947, which are quoted thus:

“95. **Inspection** – (1) The State Government may –

(g) Remove a Pradhan, or member of a Gram Panchayat or a Joint Committee or Bhumi Prabandhak Samiti, or a Panch, Sahayak Sarpanch or Sarpanch of a Nyaya Panchayat if he---

(i) absents himself without sufficient cause for more than three consecutive meetings or sittings,

(ii) refuses to Act or becomes incapable of acting for any reason whatsoever or if he is accused of or charged for an offence involving moral turpitude,

(iii) has abused his position as such or has persistently failed to perform the duties imposed by the Act or rules made thereunder or his continuance as such is not desirable in public interest, or

(iii-a) has taken the benefit of reservation under sub-section (2) of Section 11-A or sub-section (5) of Section 12, as the case may be, on the basis of a false declaration subscribed by him stating that he is a member of Scheduled Castes, the Scheduled Tribes or the Backward Classes, as the case may be.

(iv) being a Sahayak Sarpanch or a Sarpanch of the Nyaya Panchayat takes active part in politics, or

(v) suffers from any of the disqualifications mentioned in clauses (a) to (m) of Section 5-A:

Provided that where, in an enquiry held by such person and in such manner as may be prescribed, a Pradhan is *prima facie* found to have committed financial and other irregularities such Pradhan shall cease to exercise and perform the financial and administrative powers and functions, which shall, until he is exonerated of the charges in the final enquiry, be exercised and performed by a Committee consisting of three members of Gram Panchayat appointed by the State Government.

(2) A person under sub-clauses (iii) and (iv) of clause (g) of sub-section (1) of this section shall not be entitled to be re-elected or re-appointed to any office under this Act for a period of five years or such lesser period as the State Government may order in any case.

(3) No order made by the State Government under this section shall be called in question in any Court.”

5. Learned Standing Counsel further contends that proper procedure has been adopted after conducting a proper enquiry on the complaint as made against the petitioner, in which relying upon the enquiry report dated 17.05.2023, a show cause notice has been issued on 24.07.2023 and after considering the reply dated 01.08.2023, order impugned has been passed, wherein the petitioner was found incapable of acting as Pradhan for any reason whatsoever and has been charged for an offence involving moral turpitude. She has also been held guilty for not performing duties imposed by the Act, 1947 and the Rules, 1997 despite opportunity being afforded to him to constitute the committees as required under law. He could not dispute the aforesaid fact that the order impugned is not happily worded and the satisfaction with respect to financial irregularities has not been recorded, though in regard to other irregularities she has been found guilty of not performing her duties of constituting several committees as required under law.

6. In view of the above, the impugned order dated 04.09.2023 is quashed and the matter is remitted back to the District Magistrate, Rampur to pass a fresh order after considering the reply of the

petitioner dated 01.08.2023 to the show cause notice dated 24.07.2023 within a period of 15 days from today.

7. Accordingly, the writ petition is partly allowed.
8. No order as to costs.
9. Registrar (Compliance) shall communicate this order to the District Magistrate, Rampur, forthwith.

Order Date :- 06.12.2023
DS

(Justice Manju Rani Chauhan)