

Court No. - 6

Case :- WRIT - C No. - 35280 of 2023

Petitioner :- Amar Nath Gupta And Another

Respondent :- State Of U.P. And 8 Others

Counsel for Petitioner :- Muktesh Kumar Singh

Counsel for Respondent :- C.S.C., Bhupendra
Kumar Tripathi

Hon'ble Mrs. Manju Rani Chauhan, J.

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

This writ petition has been filed by the petitioner with a prayer to quash the order dated 25.03.2022 passed by the District Magistrate, Jaunpur/respondent no.3 and impugned order dated 17.05.2023 passed by Commissioner, Varanasi Region, Varanasi (respondent no. 2).

Brief facts of the case are that the petitioner was elected Gram Pradhan of the concerned Gram Pranchayat and his tenure was from the year 2016-2021. On a complaint moved by the villagers regarding illegality in certain village development work, an enquiry has been conducted and, thereafter, the order impugned has been passed. Hence, the present petition has been filed.

Learned counsel for the petitioner submits that he has challenged the recovery order dated 25.03.2022 issued by the District Magistrate, Jaunpur , under section 27 of U.P. Panchayat Raj Act on the ground that the inquiry was not conducted by Chief Audit Officer as required under law. Therefore, the order impugned is bad in the eye of law. In support of his contention, he has relied upon the judgment of the Co-ordinate Bench of this Court in the case of **Smt. Pinki Devi vs. State of U.P. and 3 Ors. decided on 12.04.2023 passed in Writ-A No.5335 of 2023.**

Learned Standing Counsel does not dispute the aforesaid.

The aforesaid issue has already been settled by Division Bench of this Court in the case of '**Dinesh Kumar and others vs. State of U.P. and others**' **reported in 2023 (1) ADJ 81**. This Court has also decided the aforesaid issue in the case of **Nageena Singh vs. State Of U.P. And 2 Others decided on 12.10.2023 passed in Writ- C No. - 34147 of 2023**.

Thus, in view of the order passed in the case of **Dinesh Kumar (supra)**, the impugned order dated 25.03.2022 passed by District Magistrate, Jaunpur and order dated 17.05.2023 passed by Commissioner, Varanasi Region, Varanasi are set aside. It shall be open to the authorities concerned to proceed, in accordance with law, after getting a proper inquiry conducted as required under the relevant provisions and also keeping in mind the observations made by the Court in the case of **Dinesh Kumar (supra)**.

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

Order Date :- 31.10.2023
Arti