

Court No. - 6

Case :- WRIT - C No. - 35861 of 2023

Petitioner :- Ahmad Miyan

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

Counsel for Petitioner :- Indra Dev

Counsel for Respondent :- C.S.C.,Lal Prabhakar Singh

Hon'ble Mrs. Manju Rani Chauhan,J.

Heard Mr. Indra Dev, learned counsel for the petitioner, Mr. Lal Prabhakar Singh, learned counsel for respondent no.5 and learned Standing Counsel for the State-respondents.

This writ petition has been filed by the petitioner with the following prayer :-

"(a) Issue writ, order or direction in the nature of CERTIORARI quashing the impugned order dated 25.09.2023 (Annexure No.6 to the writ petition) passed by the District Magistrate/Collector, Budaun in Proceedings Under Section 95(1)(g) of the U.P. Panchayat Raj Act, 1947 (Amendment Act, 1994).

(b) Issue a writ, order or direction in the nature of MANDAMUS directing the respondents/Authorities to permit the petitioner to work on the post of Gram Pradhan of Gram Panchayat Thallia Nagla, Vikas Khand Jagat, Tehsil & District Budaun and use his financial and administrative power of the petitioner on the post of Gram Pradhan.

....."

Brief facts of the case are that the petitioner was elected as Gram Pradhan of Gram Panchayat Thallia Nagla, Vikas Khand Jagat, Tehsil & District Budaun. It appears that some complaint was made by respondent no.5 before District Magistrate against the work and conduct of the petitioner. On the aforesaid complaint, a team comprising of Deputy Labour Commissioner, Budaun and Assistant Engineer was constituted to conduct a preliminary inquiry with respect to the allegations as made by respondent no.5. A letter of local M.L.A. was also placed before the District Magistrate for getting an inquiry conducted against the petitioner. A detailed preliminary inquiry was conducted and an inquiry report dated 17.08.2023 was submitted before the District Magistrate, relying upon which a show cause notice dated 28.08.2023 was issued to the petitioner, requiring him to submit a reply/explanation within a week, failing which proceedings under Section 95 (1)(g) will be initiated against him. The petitioner submitted a detailed reply to the show cause notice on 08.09.2023, considering which the order impugned

has been passed ceasing the financial and administrative powers of the petitioner, appointing a three member committee to look into the affairs of the Gram Panchayat and an inquiry committee has also been constituted to conclude the final inquiry against the petitioner, hence the present petition has been filed.

Learned counsel for the petitioner submits that although, a detailed reply has been submitted by the petitioner to the show cause notice in which the allegations at point no.4 in the show cause notice have specifically being denied and no installation of new hand-pump has been found, but without considering the same, the order impugned has been passed. He further submits that the District Magistrate, while passing the order impugned, has not passed a reasoned order mentioning as to in what circumstances he has proceeded to cease the financial and administrative powers of the Pradhan. He further submits that the reply of the petitioner has not been considered and only showing the same to be unsatisfactory, the order impugned has been passed which is in violation of the principles of natural justice.

Learned Standing Counsel on the other hand submits that there is no illegality in passing the order impugned as the same has been passed in view of the provisions of Section 95 (1)(g), wherein, detailed reason is not required while dealing with the reply. In support of his submission, he has placed reliance upon a judgment passed in **Writ-C No.20313 of 2023 (Pintu Kumar Gupta @ Pintu vs. State of U.P. And 3 others)** and **Misc. Single No. - 23948 of 2018 (Smt. Padmawati @ Padma Devi vs. State of U.P. Thru. Prin. Secy. Panchayat Raj & Ors.)**. He further submits that as the proviso of Section 95 (1)(g) and after considering the reply of the petitioner, a prima-facie satisfaction has been recorded with regard to the financial and other irregularities done by the petitioner while functioning as Pradhan. He further submits that the order has been passed following the procedure as required under the Panchayat Raj Act 1947, read with the Rules 1997.

In view of the aforesaid, the present petition is **dismissed**, accordingly.

However, the authorities concerned are directed to conclude the final inquiry within two month from today.

Order Date :- 22.11.2023

Kalp Nath Singh