

Court No. - 6

Case :- WRIT - C No. - 38835 of 2023

Petitioner :- Shri Prempal

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Brijesh Kumar Pandey

Counsel for Respondent :- C.S.C.,Puneet Kumar Shukla,Shiv
Prakash

Hon'ble Mrs. Manju Rani Chauhan,J.

1. Heard Sri Brijesh Kumar Pandey, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.
2. This writ petition has been filed by the petitioner with a prayer to quash the impugned order dated 04.10.2023 passed by District Magistrate, District-Moradabad, ceasing the administrative and financial power of the petitioner as Gram Pradhan and appointing three members committee for discharging the duty of Gram Pradhan.
3. Learned counsel for the petitioner submits that the petitioner was elected as Pradhan of Gram Panchayat-Kharagpurbaje, Block-Mudha Pandey, District-Moradabad. On a complaint being made, a preliminary inquiry was conducted by a three-member committee, comprising of Scientific Officer, Moradabad, Block Development Officer, Mudhapandey and Junior Engineer, R.I.D., Mudhapandey. The aforesaid committee has submitted a preliminary inquiry report on 15.09.2023 before the District Magistrate.
4. Emphasizing upon Rule 4 of Rules 1997, learned counsel for the petitioner submits that the preliminary inquiry has not been conducted by a proper officer as prescribed under Rule 2(c) of Rules, 1997 wherein it is provided that either District Panchayat Raj Officer or any other District Level Officer is to be nominated by the District Magistrate to conduct the preliminary inquiry.
5. He further submits that merely relying upon such preliminary inquiry report, without issuing any show cause notice calling for reply from the petitioner, the impugned order dated 04.10.2023 has been passed ceasing financial and administrative powers of the petitioner-Pradhan. The aforesaid impugned order has been passed without following proper procedure as prescribed under law,

therefore, the same is liable to be quashed.

6. Learned Standing Counsel could not dispute the aforesaid facts.

7. Perusal of the record as well as the impugned order goes to show that the inquiry has been conducted by a three-member committee, comprising of Scientific Officer, Moradabad, Block Development Officer, Mudhapandey and Junior Engineer, R.I.D., Mudhapandey relying upon which the order seizing financial and administrative power of the petitioner-Pradhan has been passed. Thus the enquiry has not been conducted in terms of relevant Rules as the District Magistrate, Moradabad ought to have appointed an Inquiry Officer under Rule 2(c) of the Rule 1997 to conduct a preliminary inquiry.

8. On perusal of the Act and the Rules, the Court is of the clear view that an elected representative can be removed only and strictly in accordance with law and in this regard the law which provides for removal of an elected representative has to be strictly construed. The error in the impugned order is apparent to the extent that the Inquiry Committee constituted is not in terms of rule 2-C of the Rules, 1997 and the order impugned is based upon the said Inquiry report dated 15.09.2023, therefore, the order impugned is held to be bad in law.

9. In view of the above, the impugned order dated 04.10.2023 passed by the respondent no.2 seizing financial and administrative powers of the petitioner is hereby **quashed**.

10. However, it is open to the respondent authorities to look into the matter and after giving proper notice and providing proper opportunity, in accordance with the relevant provisions of the U.P. Panchayat Raj Act and the Rules, 1947, conduct proper enquiry and pass appropriate orders, in accordance with the aforesaid Rules.

11. The writ petition stands **allowed**, accordingly. No order as to costs.

Order Date :- 5.12.2023

Jitendra/-