

Court No. - 21

Case :- WRIT - C No. - 39316 of 2023

Petitioner :- Santosh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Jitendra Kumar Singh, Vibhu Rai

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Donadi Ramesh, J.

1. The instant petition has been filed for a direction to the respondents to accept the resignation of the petitioner as Member of Kshetra Panchayat, Badraon (Ward No. 50), Tehsil Ghosi, District Mau, said to have been given on 25.09.2023 and declare the said seat as vacant.

2. Learned counsel for the petitioner places reliance on paragraph 11 of the judgement dated 20.07.2022 passed in ***Writ - C No. 20091 of 2022 (Neha Yadav vs. State of U.P. and 4 Others)*** which is as follows:-

"11. Thus, Section 11(2) of the U.P. Kshetra Panchayats and Zila Panchayats Adhiniyam, 1961 stipulates that a member shall be deemed to have vacated his office from the date on which notice of his resignation is received in the office of Kshetra Panchayat. The vacancy becomes effective from a date envisaged under the deeming provision engrafted in the statute. It thus becomes operative by operation of law from the date notice is received in the office of the Kshetra Panchayat. Unlike in case of Pramukh, the resignation to become effective, in case of a member, does not require any approval."

3. Shri Rajiv Gupta, learned Additional Chief Standing Counsel submits that the District Magistrate is competent to examine the said aspect and to make necessary recommendations to the competent authority.

4. Accordingly, the petition is **disposed of** with direction to respondent No. 2 to examine the issue relating to the resignation submitted by the petitioner within a period of four weeks from the date of communication of the instant order after hearing all concerned. In case, he comes to the conclusion that the vacancy has occurred, he will make necessary recommendations for further action in the matter, in accordance with law.

(Donadi Ramesh, J.) (Manoj Kumar Gupta, A.C.J.)

Order Date :- 29.11.2023

Mukesh Pal