

Chief Justice's Court

Case :- WRIT - C No. - 6743 of 2023

Petitioner :- Radheyshyam Jaiswal

Respondent :- State Of U.P. Thru. Prin.Secy. Rural Development
Deptt. Civil Sectr. Lko. And Others

Counsel for Petitioner :- S M Singh Royekwar, Sumeet
Tahilramani

Counsel for Respondent :- C.S.C.

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Rajan Roy, J.

1. Heard Sri S.M. Singh Royekwar, learned counsel for the petitioner and Sri Rajesh Tiwari, learned Addl. C.S.C. for the State.

2. By means of this petition, the petitioner has challenged an order dated 28.06.2023 passed by District Magistrate, Sitapur calling upon the petitioner who happens to be a former Member of Legislative Assembly to deposit Rs.1,00,35,954/- which is the amount allegedly misappropriated / misused by him from his Vidhayak Nidhi for ulterior purposes.

3. The contention of learned counsel for the petitioner, *inter alia*, is that this order has been passed without any notice of opportunity of hearing.

4. Learned counsel for the State could not deny the aforesaid fact.

5. We have gone through the impugned order and there is no reference therein regarding notice or opportunity of hearing having been given to the petitioner. Apparently, the order has civil consequences and is prejudicial to the petitioner, therefore, it could not have been passed without providing notice or opportunity of hearing. However, instead of quashing the orders, we provide that these orders shall be treated as a notice to the petitioner and whatever adverse material is referred therein shall be supplied to the petitioner within three weeks. The petitioner shall thereafter have next three weeks for submitting his reply and then the competent authority shall take a fresh decision. Consequences shall follow accordingly as per law. All pleas are open for the petitioner herein to be raised before the competent authority in

response to the notice referred hereinabove. Needless to say that till fresh decision is taken, the recovery shall not be made in pursuance to the orders impugned herein.

6. Accordingly, the petition is **disposed of**. It is made clear that we have not at all entered into the merits of the allegations and counter- allegations by the parties.

7. The connected petition bearing Public Interest Litigation (PIL) No.9621 of 2012 has been disposed of by a separate order passed today.

Order Date :- 18.8.2023

Shanu/-

(Rajan Roy,J.) (Pritinker Diwaker,CJ.)