

Court No. - 22

Case :- WRIT - A No. - 7336 of 2023

Petitioner :- Rajendra Kumar Dubey

Respondent :- State Of U.P. Thru. Zila Adhikari Ayodhya And 2 Others

Counsel for Petitioner :- Pramod Kumar, Rakesh Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Manish Kumar, J.

1. Present writ petition has been preferred for quashing of the impugned notices dated 27.7.2023 and 03.08.2023 for the allegations against the petitioner for the financial year 2013-2014 for two different villages.

2. Learned counsel for petitioner has submitted that the petitioner was working as a Village Development Officer and after attaining the age of superannuation the petitioner had retired on 31.01.2018. It is further submitted that the impugned notices are in contravention/against the proviso to Section 257 of U.P. Panchayat Raj Rules 1947 wherein it has been provided that no Pradhan, Up-pradhan, member, Officer or servant shall be liable for any loss, waste or misuse after the expiry of four years from the occurrence of such loss, waste or misuse or after expiry of three years from date of his ceasing to be Pradhan, Up-pradhan, Member, Officer, servant of gaon panchayat or which ever is later.

3. On the other hand, learned State Counsel has submitted that the proviso to Rule 257 is not applicable in the case of the petitioner for the reasons as per the admitted case of the petitioner in the writ petition. The first notice was issued in the year 2015 and as per the impugned notice dated 27.07.2023, it has come out that the notice under Rule 256(1) was issued to the petitioner which pertains to loss, waste or misuse of money or other property belonging to gaon-sabha as a direct consequence of negligence or misconduct of Pradhan, Up-pradhan, member, Officer or servant, as the case may be, to explain in writing. It is further submitted that till date, no order has been passed against the petitioner, hence, the writ petition is pre-mature.

4. At this stage, learned counsel for petitioner has submitted that he may be permitted to withdraw the present writ petition with liberty to approach this Court at appropriate stage, this petition

is only against the notices and not against any order passed so far. It would however be open for the petitioner to raise the points which have been raised in this writ petition before the appropriate authority who shall also consider the same with this observation. This writ petition is dismissed as withdrawn with liberty to file a fresh petition, at the appropriate stage.

Order Date :- 6.12.2023

-Amit K-