

Court No. - 17

Case :- WRIT - C No. - 10633 of 2023

Petitioner :- Neelam Devi

Respondent :- State Of U.P. Thru. Prin. Secy. Panchayat Raj
Lko. And 6 Others

Counsel for Petitioner :- Virendra Mishra

Counsel for Respondent :- C.S.C.,Sudhir Kumar Mishra

Hon'ble Alok Mathur,J.

1. Heard Sri Virendra Mishra, learned counsel for the petitioner as well as learned Standing Counsel for respondent nos. 1 and 2 and Sri Sudhir Kumar Mishra, learned counsel appearing as caveator on behalf of respondent no. 4.

2. In the light of proposed order notice to other private respondents is dispensed with.

3. It has been submitted by learned counsel for the petitioner that petitioner is an elected Gram Pradhan of Gram Panchayat - Fatehpur Sangat, Vikas Khand - Jaisinghpur, District – Sultanpur, elected in the year 2021 and his term is till 2026. It is submitted that respondent nos. 2 to 6 filed a complaint against the petitioner stating that during his tenure as Gram Pradhan he has committed several acts of misconduct and also misappropriated funds. On the basis of said complaint a preliminary enquiry was ordered by means of order dated 04.02.2023, passed by the District Panchayat Raj Officer, Sultanpur.

4. The District Panchayat Raj Officer, Sultanpur held enquiry into the allegations levelled in the complaint and submitted a report on 13.06.2023. According to the said preliminary enquiry report the allegations were verified and it was found that petitioner was prima-facie guilty of misappropriation of funds, financial irregularities while discharging her duties as village Pradhan and accordingly recommended that proceedings be initiated against the petitioner under Section 95(1)(g) of the U.P. Panchayat Raj Act, 1947.

5. Grievance of the petitioner is that by means of impugned order dated 04.11.2023, the District Magistrate, Sultanpur considering the enquiry report has ceased financial and administrative powers of the petitioner during pendency of the regular enquiry against petitioner.

6. It is submitted by learned counsel for the petitioner that

provisions of Rule 3 of U.P. Panchayat Raj Enquiry Rules, 1997, have not been followed inasmuch as the documents on which complaint was made were never supplied to the petitioner.

7. This Court in order to verify the said plea it was noticed that the complaint was duly filed on affidavit . Copy of complaint alongwith said affidavits has been filed by the petitioner alongwith the writ petition.

8. At this stage, learned counsel for the petitioner submits that he would not like to press this ground in present writ petition, but submits that liberty may be granted to him to raise aforesaid issue during the enquiry proceedings before the enquiry officer.

9. No other ground has been raised by the petitioner while assailing the impugned order.

10. In the light of above, without entering into the merits of the controversy, liberty is granted to the petitioner to raise all the objections which are regally permissible including the fact that the complaint is not as per provisions of Rule 3 of the Rules, 1997, during the regular enquiry.

11. Considering the fact that no other ground has been raised by the petitioner while assailing the impugned order and merely a request has been made that liberty be granted to raise all the grounds by the petitioner during the enquiry and the enquiry officer may be directed to consider the same and pass orders in accordance with law.

12. Accordingly, present writ petition is **disposed of** with liberty to the petitioner to raise all grounds before the enquiry officer during regular enquiry. In case such plea is raised same shall be considered by the enquiry officer while passing order in this regard.

Order Date :- 7.12.2023

A. Verma

(Alok Mathur, J.)