

Court No. - 17

Case :- WRIT - C No. - 10771 of 2023

Petitioner :- Aisa Nisha

Respondent :- State Of U.P. Thru. Prin. Secy.
Panchayati Raj Lko. And 3 Others

Counsel for Petitioner :- Amrendra Nath Tripathi

Counsel for Respondent :- C.S.C., Dilip Kumar
Pandey, Harsh Verma, Vimal Kishore Verma

Hon'ble Alok Mathur, J.

Heard Shri Amrendra Nath Tripathi, learned counsel for the petitioner.

Shri Vimal Kishore Verma, learned counsel has moved an application for impleadment.

By means of the present writ petition the petitioner has challenged the order dated 28.11.2023 whereby the District Magistrate, Sitapur in exercise of proviso to Section 95 (1) (g) of the U.P. Panchayati Raj Act, 1947 has seized the administrative and financial powers of the petitioner who is the elected Gram Pradhan of Gram Sabha village panchayat - Basantpur, Block-Behta, District Sitapur.

It has been submitted by the learned counsel for the petitioner that the petitioner was elected as Gram Pradhan of the aforesaid Gram Panchayat in year 2021. He submitted that subsequently several complaints were made against the petitioner and a preliminary inquiry was conducted and a report was submitted on 22.6.2023. Copy of the preliminary inquiry report was not given to the petitioner and on the basis of Preliminary Enquiry report show cause notice was given to the petitioner on 13.7.2023 under the provision of Uttar Pradesh Panchayati Raj (Removal of Pradhans, Up Pradhans and Members) Inquiry Rules, 1997 seeking her explanation with regard to the charges relating to misappropriation of funds.

The petitioner has duly responded to the charge sheet on 25.7.2023 denying the aforesaid allegations and by means of the impugned order

dated 28.11.2023 District Magistrate, Sitapur has passed the order of seizing the administrative and financial powers of the petitioner and also appointed a District Development Officer as an inquiry officer to inquire into the allegations against the petitioner. He has further constituted a Committee for discharging the financial and administrative powers of Gram Pradhan during the said period.

Learned counsel for the petitioner while assailing the impugned order dated 28.11.2023 has submitted that the said order is illegal and arbitrary and in violation of the principles of natural justice. He submits that once a show cause notice was given to the petitioner to which the petitioner has filed a detailed response denying the said allegations and this aspect is duly stated in the impugned order but in the entire order none of the ground raised by the petitioner has been considered or even been mentioned. The impugned order merely mentioned the fact that the petitioner has given his response on 25.7.2023 and immediately thereafter it has been stated that prima facie charges levelled against the petitioner are proved.

Neither is there any consideration of the defence taken by the petitioner nor any reasons for not accepting the response of the petitioner either been recorded.

He has submitted that giving of reasons is the essential condition of any quasi - judicial order which may reflect the application of mind by the concerned authorities towards the ground raised in defence by the delinquent person. He submits that accordingly non consideration of the response of the petitioner would be fatal in the present case and such an order cannot be sustained being violative of the principle of natural justice.

Shri Dileep Kumar Pandey, learned counsel appearing on behalf of the gaon sabha as well as Shri Vimal Kishore Verma, learned counsel on the basis of the application for impleadment has opposed the writ petition.

None of the counsel appearing for the respondents could indicate from the impugned order as to how the said order has been passed without being given due consideration to the response filed by the petitioner to the show cause notice. They do not dispute the fact that the grounds taken by the petitioner in his response have not been considered or dealt with by the District Magistrate, Sitapur in the impugned order.

It is in the aforesaid circumstances that this Court is of the considered view that it was mandatory for the District Magistrate to have duly considered the response of the petitioner to the show cause notice before passing the impugned order seizing the administrative and financial powers under the proviso of Section 95 (1) (g) of the Act of 1947. In absence of any such consideration the order is rendered arbitrary and is clearly in violation of Article 14 of the Constitution of India and consequently cannot be sustained.

This Court has not gone into the merits of the case and merely on the basis that the impugned order being violative of principle of natural justice the same is set aside.

Matter is remitted to the District Magistrate, Sitapur to pass a fresh order in accordance with law.

In light of the above the writ petition is allowed. District Magistrate, Sitapur is directed to pass a fresh order expeditiously in light of the directions issued by this Court hereinabove.

Order Date :- 14.12.2023
mks

(Alok Mathur, J.)