

Court No. - 7

Case :- WRIT - C No. - 10502 of 2024

Petitioner :- Vijay Babu Bajpai

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Panchayati Raj
Lko. And 2 Others

Counsel for Petitioner :- Bhanu Bajpai, Paavan Awasthi

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

Order on I.A. No.NIL, Dated 18.12.2024:

1. The application has been filed today in Court seeking amendment in the writ petition. The same is taken on record.
2. The application is allowed.
3. Learned counsel for the petitioner is directed to make necessary amendment in the writ petition during the course of the day.

Order on Writ Petition:

4. Heard learned counsel for the petitioner and learned Standing Counsel for the State.
5. Present petition has been filed challenging the order dated 01.06.2023 whereby the financial and administrative powers of the petitioner as a Pradhan has been seized pending enquiry as well as the order dated 27.11.2024 whereby the petitioner has been removed from the post of Pradhan.
6. Submission of learned counsel for the petitioner is that on the basis of a complaint made, a preliminary enquiry was held and a reply was called to which the petitioner gave an explanation, however, without applying mind to the objections filed by the petitioner, an order dated 01.06.2023 came to be passed seizing the financial and administrative powers of the petitioner pending enquiry. The action of the respondents and the order dated 01.06.2023 were challenged by the petitioner by means of Writ - C No.5116 of 2023 which was disposed off vide order dated 12.09.2024 with direction to pass final orders in the matter with all expedition. After the said order was passed, the petitioner once again approached this Court by filing Writ - C No.9871 of 2024 mainly on the ground that despite directions dated 12.09.2024, the proceedings have not been concluded and the order seizing the financial and administrative power

continues to restrain the petitioner from working. When the said petition was entertained, on the statement of learned Standing Counsel that a fresh order has been passed, the said writ petition was disposed off on 28.11.2024 giving liberty to the petitioner to challenge the fresh order. In pursuance to the liberty granted, the present petition has been filed.

7. Submission of learned counsel for the petitioner challenging both orders is that while passing the order dated 01.06.2023, no application of mind was reflected in the order inspite of defenses of the petitioner, thus, the same was clearly in contradiction with the judgment of the Full Bench in the case of ***Vivekanand Yadav vs. State of U.P. & Anr.; 2010 SCC OnLine All 2702.***

8. Attacking the order dated 27.11.2024, the submission of learned counsel for the petitioner is that in terms of Rule 6 of the Uttar Pradesh Panchayat Raj (Removal of Pradhans, Up-Pradhans and Members) Enquiry Rules, 1997 neither any charge sheet was given nor any evidence was supplied or any information was given by the enquiry officer, which is contrary to Rule 6 and thus, the order impugned is bad in law.

9. Learned Standing Counsel, based upon instructions, states that information to the petitioner was given through Panchayat Secretary who telephonically informed the petitioner.

10. The said information cannot be deemed to be a valid information, thus, the entire enquiry proceedings have been initiated without information to the petitioner, without supplying the charge-sheet and without supplying the list of documents proposed to be relied upon, which is *prima-facie* contrary to the mandate of Rule 6. Thus, finding the order dated 27.11.2024 in violation of Rule 6 of the Enquiry Rules, 1997 and in violation of principles of natural justice, the same is quashed.

11. Matter is remanded to the respondent to pass a fresh order, if so advised, strictly in accordance with law and after complying with the mandatory provision of Rule 6 of the Enquiry Rules, 1997.

12. As the order dated 01.06.2023 is also without application of mind, the same also cannot be justified in the light of the judgment of the Full Bench in the case of ***Vivekanand Yadav (supra)***, as such, the said order is also quashed.

13. The net effect of both the orders being quashed is that the petitioner would be entitled to continue as Gram Pradhan and

complete the term unless any fresh order is passed in terms of the liberty given for holding final enquiry.

14. Present petition stands ***allowed*** in above terms.

Order Date :- 18.12.2024

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