

Court No. - 37

Case :- WRIT - C No. - 15696 of 2020

Petitioner :- Noor Hasan

Respondent :- State Of U P And 3 Others

Counsel for Petitioner :- Surendra Pal, Sushil Kumar Pandey

Counsel for Respondent :- C.S.C., Rahul Saxena

Hon'ble Rajiv Joshi, J.

Heard Sri Sushil Kumar Pandey, learned counsel for petitioner, Sri Rahul Saxena, learned counsel for intervenor and learned Standing counsel for State-respondent.

The present petition has been filed for following relief:-

"(i) to issue a writ or direction in the nature of certiorari to quash the Impugned Order 20.02.2019 (Annexure No. 2) passed by respondent no. 2 and Order dated 31.10.2019 (Annexure No. 5) passed by respondent no. 3.

(ii) to issue a writ, order or direction in the nature of mandamus directing the respondent no. 2 to permit the petitioner to work as Gram Pradhan and exercise the financial and administrative power of Gram Pradhan of Gram Panchayat Chandrapura, Gram Pilibhit."

It reflects from record that earlier the petitioner filed Writ-C No. 11660 of 2019 (Noor Hasan Vs. State of U.P. and Another) was filed challenging the order dated 20.2.2019, which was dismissed by order dated 4.4.2019. The order dated 4.4.2019 has quoted as under:-

"Heard learned counsel for the petitioner as well as Sri C.V.S. Raghuvanshi, learned Standing Counsel appearing for the State respondents and perused the record. Sri Rahul Saxena, learned counsel is present for the caveator.

Present petition has been filed challenging the impugned order dated 20.2.2019 passed by the respondent no. 2.

By the impugned order, the financial and administrative powers of the petitioners have been ceased in exercise of powers under Section 95(1)(g) of UP Panchayat Raj Act, 1947.

Submission of the learned counsel for the petitioner is that reply of the petitioner was not considered by the District Magistrate and personal difficulties that were faced have not been considered and the orders suffer from non-application of mind.

Per contra, learned counsel for the respondents have supported the impugned order and submitted that no interference is warranted in the impugned order.

I have considered the rival submissions and perused the record.

On perusal of the record I find that a District Level Officer was appointed to

conduct the preliminary enquiry. Therefore, the petitioner was issued a show cause notice, to which he submitted his reply and only one line observation has been made by the District Magistrate that the reply submitted by the petitioner is not satisfactory and order has been passed. Prima facie this reflects non-application of mind on the reply of the petitioner, however, learned Standing Counsel has drawn attention to the reply submitted by the petitioner. On perusal of reply submitted by the petitioner to the District Magistrate in response to show cause notice clearly reflects that prayer was made that he has got the repairing work done and therefore, re-enquiry may be conducted. This reply by itself is not satisfactory as apparently the work was got done subsequently. If the shortcomings in the work done had already been found in the preliminary enquiry report although there is no specific observation in the impugned order highlighting all such facts, no interference is required in the impugned order.

In the facts and circumstances of the case, I am not inclined to interfere with the impugned order in exercise of power under Article 226 of the Constitution of India.

Present petition is accordingly dismissed.

However, it is provided that final enquiry against the petitioner shall be concluded, preferably within a period of three months from the date of production of certified copy of this order.

No order as to costs."

Again Writ-C No. 40436 of 2019 (Noor Hasan Vs. State of U.P. and 4 Others) was filed, which was dismissed and withdrawn vide order dated 12.12.2019. Thereafter, Writ-C No. 5431 of 2020 was filed for the similar relief, which was also dismissed by order dated 14.2.2020, which was also dismissed as withdrawn without any liberty to file a fresh petition. Subsequently, present writ petition has been filed challenging the same impugned order.

This Court, while entertaining the writ petition has find following order dated 7.10.2020, which is quoted as under:-

"Sri Rahul Saxena has appeared for the Intervenor.

This petition is directed against the order dated 20.2.2019 contained in Annexure-2 to the writ petition, as also also the order dated 31.10.2019 contained in Annexure-5 to the writ petition. By the orders impugned administrative and financial powers of Pradhan have been ceased and a three member committee has been constituted. In para 1 of the writ petition, it is stated that this is the first writ petition filed by petitioner.

Learned counsel for the respondents points out that same counsel had earlier filed Writ Petition No.11660 of 2019, which was dismissed on 4.4.2019. A second petition was thereafter filed being Writ Petition No.40436 of 2019 and the same was dismissed as withdrawn. The third writ petition was filed thereafter being Writ Petition No.5431 of 2020, which was dismissed as withdrawn without any liberty to file a fresh petition. Filing of these three writ petitions have been suppressed.

Let notices be issued to the petitioner as also the counsel, as to why proceedings of contempt be not initiated against him for making a deliberate false statement

before the Court. The petitioner as well as his counsel shall remain present before the Court, on the next date fixed.

Post as fresh on 14.10.2020. "

Pursuant to the order of this Court, petitioner who is Gram Pradhan, is present before this Court. It is stated by the petitioner in his personal affidavit dated 7.1.2021, that the petitioner is not well-qualified and has passed only 5th class, and therefore, due to lack of legal knowledge, the petitioner once again filed the present writ petition.

Learned Standing counsel submits that it is a clear cut case of contempt and petitioner conditionally submit his apology with flooded hand and by giving undertaking that in future, such contempt should not be repeated.

Under these circumstances, the present petition is dismissed with the extraordinary cost of Rs. 3 lacs to be deposited by the petitioner with the Registry of this Court within one month from today. In case the said cost is not deposited within the stipulated period, the Registry is directed to recover the amount of cost from the petitioner as the arrears of land revenue.

Order Date :- 18.1.2021

S.K.