

(2009) 04 AHC CK 0182
In the Allahabad High Court

Jaitun and Others

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 21-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0182

Hon'ble Judges : Arun Tandon, J

Final Decision : Dismissed

Judgement

Arun Tandon, J.

This writ petition is directed against an order of the District Magistrate whereunder he has concluded the proceedings initiated against the elected Pradhan under Section 95 (1) (g) by providing that the loss caused to the State Government to the tune of Rs. 16,359/ because of certain mal practices in construction of the road be recovered equally from the Gram Pradhan and the Gram Panchayat Adhikari.

The order is being challenged before this Court by one of the members of the three member committee which was constituted after the financial and administrative powers of the Pradhan were ceased pending final enquiry against the Pradhan.

The petitioner is not the complainant. He is only a beneficiary of the order passed earlier ceasing the financial and administrative powers of the Pradhan. On his behalf it is stated that the Pradhan has misutilized the government money and since the charge in that regard has been found proved in final enquiry, the District Magistrate had no other option but to remove the Pradhan.

The contention so raised does not appeal to the Court inasmuch as it is for the District Magistrate to pass a suitable order after final enquiry report is received. In the facts of the case if the the District Magistrate having regard to the amount involved and the extent of involvement of the Pradhan in the irregularity, has came to the conclusion that an order requiring the Pradhan to deposit half of the

amount of the loss caused to the State Government would suffice. Such exercise of the discretion vested with the District Magistrate in the facts of this case cannot be said to be arbitrary to the extent it may be interfered with under Article 226 of the Constitution of India by the writ Court.

It may be recorded that under Section 95 (1) (g), it is not mandatory that for every misconduct of the Pradhan he should be removed from his office. Legislature has left it open for the District Magistrate to examine all aspects of the matter and to pass an order as may be warranted in the facts of the case.

In view of the aforesaid, writ petition lacks merit and is accordingly dismissed.