
(2022) 12 UK CK 0019
In the Uttarakhand High Court
Case No : Writ Petition (PIL) No. 153 Of 2022

Mahendra Singh Aswal

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 05-12-2022

Acts Referred:

Uttar Pradesh Kshettra Panchayats And Zila Panchayats (Removal Of Pramukhs And Up-Pramukhs, Adhyakshas And Up-Adhyakshas) Enquiry Rules, 1997 — Rule 3

Citation : (2022) 12 UK CK 0019

Hon'ble Judges : Vipin Sanghi, CJ; Ramesh Chandra Khulbe, J

Bench : Division Bench

Advocate : Vikas Bahuguna, K.N. Joshi, Sanjay Bhatt, Sandeep Kothari

Final Decision : Dismissed

Judgement

Vipin Sanghi, CJ

1. This is a Recall Application (MCC No. 1 of 2022) filed on behalf of respondent no.9-Mahendra Singh Rana to seek recall of our order dated 22.11.2022. Our order dated 22.11.2022 reads as follows:-

"Issue notice.

2. Counsels for the respondent nos. 1 to 8 are present and accept notice.

3. In the light of the order we propose to pass, we do not consider it necessary to issue notice to respondent no. 9, the private respondent.

4. The petitioner has preferred the present Writ Petition to seek constitution of a Special Investigation Team to enquire into the complaint of the petitioner, and to conclude it within one month.

5. The said complaint is directed against the respondent no. 9. The petitioner has disclosed that the State Government, vide its order dated 10.10.2022, has directed the Additional District Magistrate, Finance and Revenue, Pauri Garhwal,

to conduct a preliminary enquiry into the complaint of the petitioner, under Rule 3 of the U.P. Kshettra Panchayats and Zila Panchayats (Removal of Pramukhs and Up-Pramukhs, Adhyakshas and Up-Adhyakshas) Enquiry Rules, 1997.

6. The grievance of the petitioner is that no action has been taken in pursuance of the said preliminary enquiry instituted by the Government.

7. We, therefore, dispose of this Writ Petition with a direction to the respondent no. 6 to conduct the preliminary enquiry expeditiously, and to conclude the same within a period of 15 days from today.

8. The petitioner should be kept informed about the submission of the preliminary enquiry report.

9. The Writ Petition is disposed of in the aforesaid terms.

10. In sequel thereto, pending application, if any, also stands disposed of.”

2. The submission of Mr. Kothari, learned counsel for respondent no.9-applicant is that the preliminary enquiry was ordered in respect of acts and omissions alleged against the respondent no.9, pertaining to the year 2019. He submits that the tenure of respondent no.9 as a Block Pramukh Kaljikkhal, District Pauri-Garhwal came to an end on 09.08.2019. He submits that, therefore, there was no purpose of directing to holding of a preliminary enquiry under the U.P. Kshettra Panchayats and Zila Panchayats (Removal of Pramukhs and Up-Pramukhs, Adhyakshas and Up-Adhyakshas) Enquiry Rules, 1997, since the tenure of respondent no.9 had already come to an end in August, 2019.

3. We have heard the submissions of Mr. Kothari, we do not find any merit in this application.

4. Firstly, we may observe that in compliance of our order dated 22.11.2022, the preliminary enquiry stands concluded on 02.12.2022. Therefore, our order dated 22.11.2022 has worked itself out. Secondly, what is the relevance of the preliminary enquiry report is an issue which would be for the respondent-Authorities to consider.

5. We cannot agree with the submission of Mr. Kothari that the said preliminary enquiry could be used only for the limited purpose of removal of the officer bearer under the aforesaid Rules. In case, any financial irregularity is found against the elected officer, such a preliminary enquiry may eventually lead to taking of other actions against the person concerned including the initiation of criminal proceedings.

6. We, therefore, do not find any merit in this application and the same is, accordingly, dismissed.