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**(2013) 12 AHC CK 0031**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 62137 of 2013

Mahendra Singh (Elected Village Pradhan)

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 13-12-2013

**Acts Referred:**

Uttar Pradesh Panchayat Raj (Removal of Pradhan, Up-Pradhans and Members)  
Enquiry Rules, 1997 — Rule 3, 7

**Citation :** (2014) 1 ADJ 434 : (2014) 1 ALJ 537 : (2014) 2 AWC 1538 : (2014) 122 RD 333 : (2014) 1 UPLBEC 425

**Hon'ble Judges :** Tarun Agarwala, J

**Bench :** Single Bench

**Advocate :** Mithilesh Kumar Tiwari, for the Appellant; Q.H. Siddiqui, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

Tarun Agarwala, J.—On the basis of a complaint a preliminary inquiry was made under Rule 3 of the U.P. Panchayat Raj (Removal of Pradhans, U.P.-Pradhans and Members) Enquiry Rules. 1997 (hereinafter referred to "the Rules of 1997"). On the basis of this preliminary inquiry report the petitioner's financial and administrative powers was ceased. The petitioner, being aggrieved, filed a writ petition, which was disposed of directing the District Magistrate to conclude the final inquiry under Rule 6 of the Rules of 1997. Pursuant to the said direction, the District Magistrate appointed an inquiry officer to conduct the inquiry in accordance with Rule 6 of the Rules of 1997. The inquiry officer submitted his report purported to be under Rule 7 of the Rules of 1997. The District Magistrate, after considering the matter, passed a final order, removing the petitioner u/s 95(1)(g) of the U.P. Panchayat Raj Act, 1947 on the ground of dereliction of duty and financial irregularity. The petitioner, being aggrieved by the said order, has filed the present writ petition.

2. In paragraphs 21, 22, 23 and 24 of the writ petition it has been specifically

stated that the inquiry officer has not conducted the inquiry in accordance with the provisions of Rule 6 of the Rules of 1997. This fact has, however, been denied in paragraph 13 of the counter-affidavit, but, details have not been provided.

3. The Court finds from a perusal of the inquiry report that no charge-sheet was served upon the petitioner as per Rule 6 of the Rules of 1997, which stipulates that the inquiry officer is required to draw up the substance of the imputation or the imputation into different and distinct articles of charge and statement of the imputation in support of each article of the charge and list of the documents, list of the witnesses etc., which are relied upon are required to be indicated. Such charges are required to be served upon the Pradhan and, upon receipt of the evidence, the inquiry officer is required to conduct an oral inquiry into such charges, which are denied by the Pradhan. Witnesses are required to be examined and opportunity is required to be given for cross-examination of the witnesses. A date, time and place is required to be fixed, which in the instant case has been given a go bye.

4. The inquiry officer has not conducted the inquiry as per Rule 6 of the Rules and has proceeded in his own cavalier fashion conducting an ex parte inquiry and submitting a report holding that the charges levelled as per the preliminary inquiry stood proved. The Court is of the opinion, that the inquiry report submitted is in gross violation of the provisions of Rule 7 of the Rules of 1997.

5. Consequently, the inquiry report cannot be sustained and the order of removal pursuant to the inquiry report is also erroneous and cannot be sustained. The impugned order is quashed.

6. The writ petition is allowed. Since the mandatory provision has not been followed, the District Magistrate will pay a cost of Rs. 20,000/- to be paid to the petitioner within three weeks from today, failing which, it would be open to the petitioner to move an appropriate application in the writ petition itself.