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**(2002) 01 RAJ CK 0029**  
**In the Rajasthan High Court**  
**Case No : Civil Writ Petition No. 2000 of 2001**

Smt. Bhuri Bai

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 07-01-2002

**Acts Referred:**

Rajasthan Panchayati Raj Act, 1994 — Section 38

**Citation :** (2002) WLC 367 : (2002) 3 WLN 94

**Hon'ble Judges :** Bhagwati Prasad, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Bhagwati Prasad, J.—The petitioner in this writ petition is a Sarpanch. An enquiry was initiated against her in terms of Section 38 of the Rajasthan Panchayati Raj Act, 1994 and pending enquiry, she was suspended. The petitioner has challenged the action of suspending her during pendency of the enquiry. The case of the petitioner is that allegation against the petitioner falls short of requirement of Section 38(1)(a) and no enquiry can be initiated against her. The allegation against her is the non-supply of documents despite State Government directives. Under Rule 323, only inspection could be permitted and supply of documents is not permissible. The petitioner was heading an institution and it had right to regulate its functions in accordance with law. As and when, an action like the impugned for suspension is taken, the same encroaches upon the fundamental character of such institution. The petitioner has relied on a decision of this Court reported in 1996(2) WLC 497 (Nandlal v. State of Rajasthan) wherein this Court has held as under:

29. Suspension should not be resorted to in the case of an elected public officer unless there is something eminently grave. Moreover, the type of allegations against the petitioner are a matter of record. It thus would not effect enquiry even if he is permitted to continue in the office.

30. In short, suspension should not be used as a hand-tool for disgruntled political rivals since it destroys the very institution and it is the interest of the institution that suffers in the process.

2. The petitioner has further relied on a decision of the Hon''ble Supreme Court reported in Tarlochan Dev Sharma Vs. State of Punjab and Others, wherein Hon''ble Supreme Court was considering the case of removal of a Sarpanch and not the enquiry. On this count, the law laid down by the Hon''ble Supreme Court is not relevant. Further Section 22 of the Punjab Municipal Act which was basis of interpretation is not the law governing the petitioner in this case and therefore, is of no consequence.

3. Learned Counsel for the respondents has submitted that enquiry has been initiated. Charge-sheet has been given to the petitioner. A direction was issued by the State Government to issue the copies to the concerned and the petitioner flouted those directions. u/s 100 of the Act, the State Government has the right to direct the petitioner to provide for the copies as directed by it. There was a clear infringement of the directives of the State Government. In the instant case, the petitioner has sought to adjudge the sufficiency of the material to initiate enquiry against the petitioner which is not permissible in terms of a Division Bench decision of this Court reported in Jan Mohd. Vs. The State of Rajasthan and Others, wherein this Court has held as under:

50. Now, it takes us to the consideration of the facts of each case. It is trite law that whether particular grounds exist for the suspension of a person or not depends upon the subjective satisfaction of the State Govt. and the Court cannot substitute its own wisdom for that order. In this respect. Mr. L.S. Udawat, the learned Addl. Advocate General has drawn our attention to a decision of this Court in State of Tamil Nadu v. P.M. Belliappa 1985 LIC 51 wherein a Division Bench of the Madras High Court has held:

that when matter of suspension is left to the objective satisfaction of the Govt., the normal rule is that it is not necessarily justiciable before the High Court and the Court cannot look into the question as to whether the materials are adequate or inadequate from its point of view. But, the factum of satisfaction can always be questioned before the Court and the party-challenging the order of suspension can always show before the Court that the professed satisfaction is no satisfaction at all either because it was formed on extraneous or irrelevant circumstances or that there was a total back of application of mind to the question as to whether it is necessary or desirable to suspend the Officer. The facts and circumstances to be considered must to those which existed on the date of the conclusion of the opinion or arriving at the satisfaction and actually weighed with the authority while passing the impugned order and facts which have come to transpire subsequently or which have been subsequently unearthed as existing even at the time of the conclusion or formation of opinion, though not considered and taken into account, cannot at all be relied on to support the impugned order. While the Court can examine as to whether the

opinion or satisfaction was formed at all, Court cannot substitute its own satisfaction for that of the authority. Though the materials placed may not satisfy the Court, the task of the Court is only limited to an investigation as to whether there was any foundation of fact at all or whether irrelevant and extraneous circumstances have weighed with the authority while passing the Impugned order. The fact that different formation of opinion or satisfaction is possible for the Court on the very same facts and circumstances is not a ground to quash the order in question. May be, the reason, given are in general terms. Yet the Court should not exclude reasons which may fairly fall within them, allowance being made for difficulties in expression.

It is, therefore, clear that so far as the facts are concerned, objective satisfaction of the State will have to be taken into consideration and the Court cannot super impose its discretion. However, it should always be examined whether the satisfaction has been arrived at objectively or arbitrarily.

4. In this background, this has been canvassed on behalf of the respondents that the petitioner is not entitled to invoke the extra-ordinary jurisdiction of this Court to challenge the suspension order passed against her.

5. I have considered the rival submissions and have given my thoughtful consideration.

6. The law laid down in the case of Jan Mohd. (supra) is clear and unambiguous. If an enquiry is ordered and there are grounds for passing the order, then sufficiency of the grounds cannot be gone into by the courts. The ground sought to be raised by the petitioner that the petitioner had right to refuse supply of copies because only an inspection can be ordered is devoid of force. There is a power vested in the State Government to order for supply and such order was in fact passed and the petitioner had flouted such order. Thus, in terms of Section 38(1)(a) the petitioner had refused to act to fulfill the intentions of the law. That being the position, a prima facie case against the petitioner is made out for a valid enquiry. This Court has held in Jan Mohd."s case (supra) that as and when there is a prima facie case made out for holding an enquiry, rest follows. If a valid enquiry is there, powers of suspension are always available. In this view of the matter, there is no jurisdiction for this Court to order any interference in the matter, more particularly when the enquiry has already been initiated.

7. It would be appropriate if the enquiry officer completes the enquiry within three months of the submission of this order before him. Both the parties are expected to cooperate with the enquiry officer for completion of the enquiry.

8. With these observations, the writ petition is held to be meritless, hence dismissed.