

(2003) 12 AHC CK 0019
In the Allahabad High Court
Case No : C.M.W.P. No. 37585 of 2003

Smt. Bijula Rai

APPELLANT

Vs

District Panchayat Raj Adhikari and Others

RESPONDENT

Date of Decision : 19-12-2003

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 95(1)

Citation : (2004) 96 RD 302 : (2004) 1 RD 302

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : B.N. Rai and Adarsh Kumar, for the Appellant; W.H. Khan and J.H. Khan and Awadhesh Rai, S.C., for the Respondent

Final Decision : Allowed

Judgement

Anjani Kumar, J.—By means of present writ petition under Article 226 of the Constitution of India, the petitioner has challenged the order impugned in the present writ petition dated 14th August, 2003, passed by District Panchayat Raj Adhikari, Ghazipur, copy whereof is appended as Annexure-1 to the writ petition, whereby the District Panchayat Raj Adhikari has restrained the petitioner, who is Pradhan of the concerned Gram Panchayat, from exercising any financial or administrative power till further orders.

2. Heard learned counsel appearing on behalf of the petitioner and the learned standing counsel representing the contesting respondents.

3. Learned counsel appearing on behalf of the petitioner submitted that District Panchayat Raj Adhikari has no power to pass the order impugned in the present writ petition. According to the submission made by learned counsel for the petitioner, the power, which can be exercised u/s 95 (1) (g) of the Panchayat Raj Act, as has been done in the present case, can be exercised only by the District Magistrate concerned and District Panchayat Raj Adhikari has no authority or power to pass this order. It is also submitted that the power aforesaid made by

District Magistrate has not been delegated in favour of District Panchayat Raj Adhikari. In this view of the matter, this order is wholly without jurisdiction and deserves to be quashed.

4. Learned standing counsel appearing on behalf of the contesting respondents failed to demonstrate that the order passed by the District Panchayat Raj Adhikari u/s 178 of the Act aforesaid, as has been done in the present case can be delegated or has ever been delegated in favour of the District Panchayat Raj Adhikari.

5. In this view of the matter, the writ petition deserves to be allowed and the order impugned in the present writ petition deserves to be quashed.

6. For the reasons stated above, this writ petition is allowed. The order dated 14th August, 2003, passed by respondent No. 1 (Annexure-1 to the writ petition) is quashed. However, on the facts and circumstances of the case, there will be no order as to costs.