
(2007) 08 AHC CK 0158
In the Allahabad High Court

Smt. Shashi Prabha Shukla	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 07-08-2007

Acts Referred:

Citation : (2008) 2 AWC 1633 : (2008) 104 RD 741

Hon'ble Judges : A.N. Varma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

A.N. Varma, J.—Heard learned Counsel for the petitioner as well as additional chief standing counsel for the opposite parties. With the consent of the parties, the writ petition is being finally disposed of at the admission stage.

2. Under challenge in the instant writ petition is order dated 16th July, 2007 whereby the administrative as well as financial powers of the petitioner who is Pradhan of the concerned Gram Panchayat has been withdrawn and three member committee has been constituted.

3. Learned Counsel for the petitioner submitted that under the U.P. Panchayat Raj Act, 1947, (hereinafter to be referred as "Act") it is only the District Magistrate who is empowered to withdraw financial as well as administrative powers of an elected Pradhan. In this connection he referred to a Government order dated 30th April, 1997 which stipulates that the Governor has delegated all the powers of the State Government under Clause (g) of Sub-section (1) of Section 95 of Panchayat Raj Act to all District Magistrates in Uttar Pradesh. As per submission of the learned Counsel, the impugned order has been passed not by the District Magistrate but by the Chief Development Officer whose signature exists on the impugned order.

4. Vide order dated 3rd of August, 2007, learned standing counsel was required to seek instructions in the matter. The learned Additional Chief Standing Counsel submits that since on the date on which the impugned order was passed, the

District Magistrate was not in office, therefore, the Chief Development Officer exercising the powers of District Magistrate, signed the order and therefore, the impugned order cannot be said to be bad in law.

5. The provisions of Section 95(1)(g) of the Act as well as the Government order referred to hereinabove both contemplate that It is only the District Magistrate who can exercise powers with regard to withdrawing of the administrative as well as financial powers of a Pradhan and thereafter appoint three member committee. The District Magistrate having not passed the said order, as also admitted by learned standing counsel, the impugned order cannot be allowed to be sustained.

6. In view of the aforesaid, the writ petition succeeds and is allowed. The order dated 16th July, 2007 as contained in Annexure-1, said to have been passed by the Chief Development Officer, is hereby set aside.

7. It will, however, be open for the opposite parties to pass appropriate orders In accordance with law.