



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 5608/2025

Puranmal Verma S/o Hajari Lal Raigar, Aged About 45 Years,
R/o Raigaron Ka Mohalla, Panwad, Panchayat Samiti Devli,
District Tonk.



-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Rural Development And Panchayati Raj Department, Rajasthan, Jaipur.
2. Divisional Commissioner, Ajmer.
3. Additional Commissioner Cum Deputy Secretary-Ii, (Inquiry), Rural Development And Panchayati Raj Department, Rajasthan, Jaipur.
4. District Collector, Tonk.
5. Chief Executive Officer, Zila Parsiahd, Tonk.

-----Respondents

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| For Petitioner(s) | : | Mr. Suresh Pareek with Mr. Praveen Sharma |
| For Respondent(s) | : | Mr. Aditya Sharma for Mr. Kesar Singh Shekhawat, AGC |

JUSTICE ANOOP KUMAR DHAND

Order

14/07/2025

Reportable

1. Matter comes up on interim application No.01/2025 under Order 1 Rule 10(2) CPC for impleading necessary party in the array of cause title.
2. This Court finds no merit in the said application and the same stands rejected.



3. The instant writ petition has been preferred by the petitioner against the impugned order dated 18.03.2025, by which the petitioner has been removed from the post of Administrator.

4.. Counsel for the petitioner submits that the petitioner was elected as *Sarpanch, Gram Panchayat, Panwar, Panchayat Samiti Devli*, District Tonk and after completion of his term as *Sarpanch*, he was appointed as Administrator and was allowed hold the said post. Counsel submits that the petitioner was placed under suspension under Section 38(4) of the Rajasthan Panchayati Raj Act, 1994 (for short 'the Act of 1994'), in contemplation of the enquiry initiated against him. Counsel submits that a charge-sheet was served upon the petitioner, against which, reply was submitted, but without following the mandate contained under Rule 22 of the Rajasthan Panchayati Raj Rules, 1996 (for short 'the Rules of 1996'), straightaway, order impugned has been passed, which is not sustainable in the eye of law.

5. In support of his contentions, counsel for the petitioner has placed reliance upon the order dated 04.03.2013 passed by the Co-ordinate Bench of this Court at Principal Seat at Jodhpur in the case of **Roshani Devi Vs. State of Rajasthan & Ors.** while deciding S.B. Civil Writ Petition No.6886/2011.

6. *Per contra*, learned counsel for the respondents opposed the arguments raised by the counsel for the petitioner and submitted that the petitioner being *Sarpanch* of the *Panchayat*, exercised his power & post and committed several financial irregularities, for which a preliminary enquiry was





conducted against him, wherein, the petitioner was prima facie found guilty, thereafter, a charge-sheet was served upon him and after considering his reply, an enquiry was conducted by the Block Development Officer, Panchayat Samiti and the charges were found to be proved against him. Counsel submits that on the basis of the final enquiry report, the order impugned has been passed, by which the petitioner has been removed from the post of Administrator, hence, interference of this Court is not warranted and the writ petition is liable to be rejected.

7. Heard and considered the submissions made at Bar and perused the material available on the record.

8. The basic thrust of argument raised by the counsel for the petitioner is that without following the mandate contained under Rule 22 of the Rules of 1996, the order impugned has been passed. For sake of convenience, the provisions contained under Rule 22 are reproduced as under:

"22. Procedure of enquiry: (1) Before taking any action under Sub-Section (1) of Section 38, where on its own motion or upon any complaint, the State Government may ask the Chief Executive Officer or any other officer to get a preliminary enquiry done and to send his report to the State Government within one month.

(2) If, upon consideration of the report received as aforesaid or otherwise, the State Government is of the opinion that action under Sub-Section (1) of Section 38 is necessary, the State Government shall frame definite charges and shall communicate them in writing to the Chairperson, Deputy Chairperson or Member of the Panchayati Raj Institution together with such details as may be deemed necessary. He



shall be required to submit a written statement within one month admitting or denying the allegations, giving his defence, if any and whether he desires to be heard in person.

(3) State Government may after expiry of prescribed period and considering such written statement, appoint an Enquiry Officer and also nominate any person to present the case before Enquiry Officer on behalf of the State.

(4) Enquiry Officer shall consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. Opportunity of cross examination of witness shall be provided to the opposite side.

(5) Enquiry Officer shall prepare a report on conclusion of enquiry, recording his findings on every charge as proved or not proved or partly proved along with the reasons therefore, and submit it to the State Government for final decision.

(6) The provisions of the Rajasthan Disciplinary Proceedings (Summoning of witnesses and production of documents) Act, 1959 (Rajasthan Act No. 28 of 1959) and the rules made thereunder shall also apply mutatis mutandis to enquiries being conducted against the Chairperson, the Deputy Chairperson or Member of Panchayati Raj Institution as the case may be, under these rules.

(7) State Government shall consider the findings of enquiring Officer and after giving him opportunity of hearing, may either exonerate, or remove such Chairperson, Deputy Chairperson or Member from the Office or pass appropriate orders. In case of removal, it shall also be published in Official Gazette :

Provided that findings shall be recorded against them if term of election of such Panchayati Raj Institution has already expired."

9. Perusal of the aforesaid Rule indicates that before taking any action under Section 38 of the Act of 1994, the State Government is required to follow the mandate contained under





Rule 22 of the Rules of 1996. As per Sub Clause 3 of the Rule 22 of the Rules of 1996, an Enquiry Officer is required to be appointed, who shall consider the documentary and oral evidence as well as all relevant material with regard to the charge into consideration and thereafter, opportunity of cross-examination with the witnesses is required to be given to the other side and thereafter, a report is required to be prepared for coming to the conclusion 'whether any representative is found to be involved in any financial irregularity for the charges levelled against him'.

10. This Court directed the State counsel to bring the original record for perusal of this Court.

11. This Court has gone through the entire record of the preliminary as well as the final enquiry report conducted by the Block Development Officer, which reveals that only on the basis of the reply submitted by the petitioner and without recording the evidence of witnesses and without considering the other evidence available on the record, straightaway, the order impugned has been passed simply on the basis of the charge-sheet and reply submitted by the petitioner.

12. During course of the arguments, it has been fairly admitted by the State counsel that the statements of the witnesses have not been recorded and other documents were not taken into account before passing the order impugned.

13. In a democratic set up, an elected representative is the voice of the people to whom he represents, hence, much care and caution is required to be taken while removing him from the post he is holding. In a democracy governed by the Rule of





Law, once an incumbent is elected to an office in a democratic institution, he is entitled to hold the office for the term for which he has been elected unless his conduct is found to be disgraceful or he has misused his power and position involving any kind of activities, which warrant his removal from his post in terms of Section 38 of the Act of 1994. But before removing him from his post for any of the charges levelled against him, the provisions contained under Rule 22 of the Rules of 1996, are required to be followed. But, here in the instant case, the above procedure has not been followed. Only a charge-sheet was served upon the petitioner and after considering his reply to be non-satisfactory, his removal order has been passed. Whereas, the respondents were supposed to conduct an enquiry against the petitioner, in terms of Rule 22 of the Rules of 1996.

Hence, it is clear that before passing the impugned removal order against the petitioner while exercising the powers contained under Section 38(1) of the Act of 1994, the procedure contained under Rule 22 of the Rules of 1996 has not been followed.

14. In view of the above, facts and circumstances of the case, the impugned order dated 18.03.2025 is not liable to be sustained and is liable to be and is hereby quashed and set-aside.

15. The matter is remitted to the State for passing fresh orders in terms of the Rule 22 of the Rules of 1996 within a period of three months from the date of receipt of certified copy of this order.



16. With the aforesaid observations, the instant writ petition stands disposed of. The stay application and all pending applications, if any, also stand disposed of.

17. Before concluding this order, this Court observes that in numerous cases, orders for removal of Panchayat Members have been passed without adhering to the mandatory provisions and procedures outlined in Rule 22 of the Rajasthan Panchayati Raj Rules, 1996. It appears that Enquiry Officers are not well-versed with these provisions, leading to errors in their orders.

18. The Principal Secretary, Department of Panchayat Raj, Government of Rajasthan; Divisional Commissioners; and District Collectors are hereby directed to inform all Chief Executive Officers of Panchayat Samitis about the importance of strictly following Rule 22 of the Rules of 1996. This will help prevent similar errors in future orders passed against public representatives who are disqualified due to disgraceful conduct.

19. Let a copy of this order be sent to Principal Secretary, Department of Panchayati Raj, all Divisional Commissioners and all District Collectors of the State of Rajasthan.

(ANOOP KUMAR DHAND),J

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