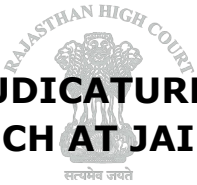




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No.6663/2025

Sangam Chaudhary Wife Of Shri Vishvendra Singh, Aged About 37 Years, Pradhan Panchayat Samiti, Kathumar, District Alwar (Rajasthan).

-----Petitioner

Versus

1. The State Of Rajasthan, Through Secretary And Commissioner Gramin Vikas And Panchayati Raj Department (Panchayati Raj), Govt. Of Rajasthan, Govt. Secretariat, Jaipur (Raj.).
2. Additional Commissioner And Deputy Secretary (Investigation), Gramin Vikas And Panchayati Raj Department (Panchayati Raj), Govt. Of Rajasthan, Govt. Secretariat, Jaipur (Raj.)

-----Respondents

Connected With

S.B. Civil Writ Petition No.3425/2025

Sangam Chaudhary W/o Vishvendra Singh, Aged About 37 Years, Pradhan Panchayat Samiti, Kathumar District Alwar.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Secretary And Commissioner Gramin Vikas And Panchyati Raj Department (Panchayati Raj), Govt. Of Rajasthan, Govt. Secretariat, Jaipur (Raj.)
2. Additional Commissioner And Deputy Secretary (Second), Gramin Vikas And Panchyati Raj Department (Panchayati Raj), Govt. Of Rajasthan, Govt. Secretariat, Jaipur (Raj.)

-----Respondents

For Petitioner(s)	:	Mr. Anil Mehta, Senior Advocate assisted by Mr. Yashodhar Pandey
For Respondent(s)	:	Mr. Kapil Prakash Mathur, AAG assisted by Mr. Ashutosh Udawat Mr. Pranay Sharma Mr. Prateek Saxena Mr. Saurabh Sharma Ms. Sara Parveen

JUSTICE ANOOP KUMAR DHAND

Order



Reserved on

11/08/2025

Pronounced on

:

20/08/2025



1. Since common question of facts and law are involved in these writ petitions, therefore, with the consent of counsel for the parties, all the matters are taken up and heard together for final disposal and are being decided by this common order.

2. S.B. Civil Writ Petition No.6663/2025 has been submitted against the impugned order dated 25.04.2025 by which the petitioner has been placed under suspension by the respondents in exercise of the powers contained under Section 38 of the Rajasthan Panchayati Raj Act, 1994 (hereinafter referred to as "the Act of 1994").

3. S.B. Civil Writ Petition No.3425/2025 has been submitted by the petitioner against the charge-sheet issued to her under Rule 22(2) of the Rajasthan Panchayati Raj Rules, 1996 (hereinafter referred to as "the Rules of 1996").

4. Learned Senior Counsel for the petitioner submits that the petitioner is presently serving as the elected *Pradhan* for the year 2025. A charge-sheet has been issued to the petitioner under Rule 22(2) of the Rules of 1996 pertaining to an incident that occurred during her tenure as Sarpanch in the year 2017. It is alleged that the petitioner had issued Pattas outside the abadi land, i.e., in Gair Mumkin Siwai Chak. Learned counsel further submits that thrice enquiries were conducted in the matter. In the first enquiry, it was found that in all eight pattas were issued, out of which six



pattas were issued within the abadi land and two pattas were issued outside the abadi land. In the second enquiry, no charges were found to be proven against the petitioner. However, in the third enquiry, which was conducted with the help of DGPS survey, it was again alleged against the petitioner that two pattas of land were issued by her outside the abadi land. Learned counsel further submits that the identification of the nature of land is not within the competence of the Sarpanch and it was the duty of the Revenue Officer to identify the nature of the land. Therefore, under these circumstances, even if two pattas were found to have been issued outside the abadi land, the petitioner cannot be held liable for any error.

5. Learned Senior Counsel for the petitioner submits that the incident pertains to the year 2017, i.e., for the earlier term of the petitioner as Sarpanch, which was completed in the year 2020 and thereafter, the petitioner was re-elected as Pradhan in the year 2020. Learned counsel submits that there was no reason or occasion available with the respondents to conduct the enquiry, after the completion of the petitioner's earlier term. Learned counsel further submits that a complaint was lodged against the petitioner in the year 2022, which remained pending for three years and all of sudden not only the charge-sheet has been served upon the petitioner but she has also been placed under suspension. Learned counsel submits that the enquiry pertains to documentary evidence, therefore, suspension of the petitioner is wholly unwarranted, as she is not going to influence the enquiry proceedings. Learned counsel submits that at one point of time,





the Commissioner, Department of Panchayat Raj has recorded a finding in the note-sheet that the enquiry into the matter has already been completed on an earlier occasion and accordingly, the Commissioner was of the opinion that there was no need to initiate a fresh enquiry against the petitioner. Learned counsel submits that, under these circumstances, interference of this Court is warranted and accordingly, the charge-sheet as well as the suspension order issued against the petitioner deserves to be quashed and set-aside. Learned counsel further submits that on the earlier occasion also, on similar charges, the petitioner was placed under suspension vide order dated 27.02.2025, but subsequently, the said order was withdrawn by the respondents and thereafter, the impugned order dated 25.04.2025 has been passed, which is hit by the principles of *res judicata*.

6. In support of his submissions, learned Senior Counsel has placed reliance upon the judgment passed by this Court in the case of **Kanak Mal Versus State & Others** reported in **RLW 1999 (3) Raj. 1866**.

7. *Per contra*, learned Additional Advocate General appearing for the respondent-State opposes the submissions made by learned counsel for the petitioner and submits that a complaint was received against the petitioner wherein it was alleged that after accepting certain amount in consideration, she had illegally issued pattas outside the abadi land, i.e., in Gair Mumkin Siwai Chak. Learned counsel submits that after receipt of the aforesaid complaint, an enquiry was initiated and, thereafter, charge-sheet





was issued to the petitioner under Order 22(2) of the Rules of 1996 wherein three charges were levelled against her. It is submitted that during pendency of the enquiry, the petitioner has been placed under suspension. Learned counsel also submits that this Court cannot adjudicate the correctness of the allegations levelled against the petitioner in the charge-sheet. Learned counsel submits that even for the misconduct of the previous term of the petitioner, an enquiry can be conducted and she can be placed under suspension under Section 38(1) & (4) of the Act of 1994. Learned counsel submits that this view has been taken by the co-ordinate Bench of this Court in the case of **Ramesh Chand Malviya Vs. State of Rajasthan & Others** reported in **2001(2) RLW 1291**. He has also placed reliance upon the judgment passed by this Court in the case of **Indra Dudi Vs. State of Rajasthan & Others** while deciding **S.B. Civil Writ Petition No.16232/2024** on 24.04.2025. He has further placed reliance upon the judgment of the Hon'ble Apex Court in the case of **Pimpri Chinchawad New Township Development Authority Vs. Vishnudev Cooperative Housing Society and Others** reported in **AIR 2018 SC 3656**.

8. Lastly, learned Additional Advocate General appearing for the respondents submits that the internal correspondence between the officials should not be construed as expression of an opinion by the respondents as the same has no legal sanctity. Learned counsel submits that once a decision has been taken by the appropriate Government to conduct an enquiry against the petitioner under Rule 22(2) of the Rules of 1996 and



subsequently, pending enquiry, a decision was taken to place the petitioner under suspension, there is no infirmity in either the charge-sheet or the impugned order of suspension, which warrant any interference of this Court and accordingly, the writ petitions are liable to be rejected. Lastly, he argued that the principle of *res judicata* is not applicable in the present matter, as liberty was sought by the State from this Court for passing a fresh order and after recording satisfaction in the order impugned, the petitioner was placed under suspension.

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

10. In the present matter, the petitioner has been placed under suspension and charge-sheet has been issued to her under Section 38 of the Act of 1994. A bare reading of Section 38 of the Act of 1994 indicates that any member, including a Chairperson or a Deputy Chairperson of the Panchayati Raj Institution may be removed if he or she refuses to act or becomes incapable of acting as such or is guilty of misconduct in discharge of duties or any disgraceful conduct. Sub-section (4) of Section 38 of the Act of 1994 provides that such person can be suspended against whom any enquiry under sub-section (1) of the Section 38 of the Act of 1994 has been initiated.

11. In the instant case, a complaint was made against the petitioner, while she was discharging her duties as *Sarpanch* in the previous term, with regard to allotment of pattas outside the abadi land, after taking consideration amount. The matter was





enquired by a fact finding committee, who *prima facie* found involvement of the petitioner with regard to the allegations made against her in the complaint. Hence, the matter was referred for conducting a detailed enquiry against her. Subsequently, after examining the report of Preliminary Enquiry, a charge-sheet was served upon the petitioner wherein the following charges have been levelled against her and the same read as under:



"राजस्थान पंचायती राज नियम 1996, नियम 22(2) के अन्तर्गत आरोप मय विवरण पत्र विरुद्ध श्रीमती संगम चौधरी, प्रधान, पंचायत समिति कठूमर जिला अलवर।

आरोप मय विवरण पत्र

आरोप संख्या 1: आदेशों की अवहेलना :- जॉच अधिकारी जिला परिषद अलवर के पत्रांक जिपअ/जांच/2023/9216-18-दिनांक 07.02.2023 के अनुसार आपके विरुद्ध आपके सरपंच कार्यकाल में जारी हुए पट्टों की जिला परिषद कार्यालय में जॉच दल के समक्ष विचाराधीन जांच के दौरान आप दिनांक 06.02.2023 को ग्राम पंचायत कार्यालय अरूवा पर अनुपस्थित रही। जिसके लिए आप दोषी है।

आरोप संख्या 2 नियम विरुद्ध कार्य करना :- आपने सरपंच कार्यकाल में सरपंच पद पर रहते हुए ग्राम पंचायत अरूवा में पट्टा संख्या 11/21.05.2017 तेजसिंह पुत्र सम्पत, खसरा नं. 99 रकबा 1.18 है0 किस्म चाही ए खातेदारी भूमि में एवं पट्टा संख्या 12/21.05.2017 तुहीराम पुत्र सम्पत, खसरा नं. 89 रकबा 0.73 है0. किस्म गैर मु0 पोखर सिवायचक में जारी किये गये। राजस्थान पंचायती राज नियम 1996 में वर्णित नियमों के विरुद्ध ग्राम पंचायत अरूवा में उक्त पट्टे गैर आबादी में आपके द्वारा जारी किये गये। उक्त नियम विरुद्ध कार्य करने के लिए आप दोषी है।

आरोप संख्या 3 : कर्तव्य के प्रति लापरवाह :- आपने सरपंच कार्यकाल में सरपंच पद पर रहते हुए ग्राम पंचायत अरूवा में पट्टा संख्या 11/21.05.2017 तेजसिंह पुत्र सम्पत, खसरा नं. 99 रकबा 1.18 है। किस्म चाही ए खातेदारी भूमि में एवं पट्टा संख्या 12/21.05.2017 तुहीराम पुत्र रत्तीराम खसरा-नं. 89 रकबा 0.73 है0 किस्म गैर मु0 पोखर सिवायचक में जारी किये गये। उक्त पट्टे गैर आबादी में जारी कर आपने राजस्थान पंचायती राज अधिनियम, 1994 की धारा 32 अनुरूप ग्राम पंचायत सरपंच के पदीय कृत्य एवं कर्तव्य के प्रति लापरवाही बरती है। जिसके आप दोषी है।

उक्तानुसार आपका यह आचरण राजस्थान पंचायती राज अधिनियम 1994 की धारा 38 के तहत कर्तव्यों के निर्वहन में अपचार एवं अपकीर्तिकर आचरण का परिचायक होने की श्रेणी में आता है। जिसके लिए आप आरोपित है।"



Perusal of the charge-sheet reveals that serious allegations regarding allotment of pattas outside the abadi land have been levelled against the petitioner, in exchange of certain amount in gross violation of the provisions of the Rules of 1996. Several charges of serious nature have also been levelled against her with regard to corrupt practices and misuse of power and position, during her tenure as *Pradhan* and such conduct of the petitioner was found to be prima facie disgraceful. Consequently, a detailed enquiry was proposed to be conducted against her by way of issuing charge-sheet, while placing her under suspension.

In the considered opinion of this Court, the correctness of the charges and allegations cannot be determined and adjudicated by this Court while exercising its writ jurisdiction, contained under Article 226 of the Constitution of India. This Court cannot act as an Enquiry Officer to adjudicate and assess the correctness of the allegations levelled against the petitioner. Normally, a charge-sheet is not quashed before the conclusion of the enquiry. Furthermore, a charge-sheet cannot be quashed unless it is established that it has been issued by an authority not competent to issue the same. It is a settled proposition of law that charge-sheet cannot be interfered with by the Court lightly or in a routine manner. An aggrieved person, instead of seeking quashing of the charge-sheet at the initial stage, must submit his/her reply before the enquiry officer and await the conclusion of the proceedings.

12. This Court finds no substance in the argument of the counsel for the petitioner that the Commissioner himself observed in the notesheet that enquiry is not required to be conducted against the



petitioner since she had deposited the amount. Such an observation/remark made in the file by the Commissioner constitutes mere internal correspondence between the officials and carries no legal sanctity. This proposition of law has been laid down by the Hon'ble Apex Court in the case **Pimpri Chinchawad New Township Development Authority** (supra) and it has been held in Para-36 as under:-



"36. Our answer to the question is "no". It is for the reasons that : first, a mere noting in the official files of the Government while dealing with any matter pertaining to any person is essentially an internal matter of the Government and carries with it no legal sanctity; second, once the decision on such issue is taken and approved by the competent authority empowered by the Government in that behalf, it is required to be communicated to the person concerned by the State Government. In other words, so long as the decision based on such internal deliberation is not approved and communicated by the competent authority as per the procedure prescribed in that behalf to the person concerned, such noting does not create any right in favour of the person concerned nor it partake the nature of any legal order so as to enable the person concerned to claim any benefit of any such internal deliberation. Such noting(s) or/and deliberation(s) are always capable of being changed or/and amended or/and withdrawn by the competent authority."

13. This Court further finds no substance in the argument of the counsel for the petitioner that the issuance of pattas by the petitioner outside the Abadi land relates to the year 2017, during the petitioner's tenure as Sarpanch of the Panchayat, which ended in the year 2020 and subsequently, the petitioner was elected as



Pradhan in the year 2020 and the complaint was filed in the year 2022 and after conducting preliminary enquiry, charge-sheet has issued to the petitioner and she was placed under suspension vide impugned order dated 22.04.2025. Hence, there has been inordinate delay on the part of the respondents in initiating the above proceedings, which does not warrant suspension of the petitioner.



It is settled proposition of law that an enquiry under Section 38(1) of the Act of 1994 can be initiated even after expiry of the term of the Panchayati Raj Institution for the misconduct of the previous term.

14. To appreciate the argument, it is necessary to reproduce Section 38(1) of the Act of 1994. It reads as under:

“The State Government may, by order in writing and after giving him an opportunity of being heard and making such enquiry as may be deemed necessary, remove from office any member including a chairperson or a deputy chairperson of a Panchayati Raj Institution, who-

(a) refuses to act or becomes incapable of acting as such; or

(b) is guilty of misconduct in the discharge of duties or any disgraceful conduct;

Provided that any enquiry under this sub-section may, even after the expiry of the term of the Panchayati Raj Institution concerned be initiated or, if already initiated before such expiry, be continued thereafter and in any such case, the State Government shall, by order in writing, record its findings on the charges levelled.”

15. What is made clear by the proviso is that an enquiry can be initiated and continued even after the expiry of the term of the Panchayati Raj Institution. This implies that a charge-sheet can be



served on the petitioner for the actions done by her during her previous term in office as Sarpanch. Logically, on conclusion of the enquiry, any person found guilty can be subject to punishment. Findings on the charges are not recorded for academic purpose, they are recorded because they can be used against the delinquent official. In case of a Member, Chairperson or Deputy Chairperson of a Panchayati Raj Institution who has either not sought re-election or has failed to get elected again to the same post previously held by his/him, the enquiry under Section 38(1) will conclude after recording finding on the charges levelled and there will be no question of removal from office in such a case, as the person has already ceased to hold the office. Such a person will only incur the disqualification under Section 38(3) in which, it is clearly provided that the Member or the Chairperson or the Deputy Chairperson removed under sub-section (1) or against whom findings have been recorded under the proviso to that sub-section, shall not be eligible for being chosen under the Act for a period of five years from the date of his removal or, as the case may be, the date on which such findings are recorded. However, so far as the person who gets re-elected and continues to hold the same office, the order for removal can be passed and the provisions of Section 38(4) of the Act of 1994 clearly applies to such person and he can be suspended from his office. Obviously, Section 38(4) of the Act of 1994 has no application in the case where the person has already ceased to hold the office and has not been re-elected to the same office. In the present case, the petitioner has been re-elected and is continuing on the post of





Pradhan. She may, therefore, be removed from office, if found guilty in an enquiry under Section 38(1) of the Act of 1994. Accordingly, there is no force in the contention that for the irregularity and misconduct, which occurred during the previous term, the petitioner cannot be removed from office and that the Section 38(4) of the aforesaid Act does not apply to the petitioner.

16. The judgment relied upon by counsel for the petitioner in the case of **Kanak Mal** (supra) is not applicable to the instant matter because the provisions of conducting enquiry for the previous term, as described under Section 38 of the Act of 1994, have not been discussed in that judgment.

17. Various versions and cross versions have been given by the counsel appearing from the rival sides regarding correctness of the charges. However, this Court does not deem it appropriate to go into the correctness of the charges and the reply submitted by the petitioner since it is the subject matter of an ongoing judicial enquiry. Accordingly, this Court refrains from making any observation in this regard. This Court makes it clear that all the observations herein above are solely for the purpose of disposal of the instant case and the Enquiry Officer shall not be influenced or inhibited by such observations in any way, as doing so would prejudice the ongoing enquiry. The Enquiry Officer, on the completion of enquiry, shall be at liberty to draw his independent conclusions based solely on the material placed before him.

18. Although, in view of the settled principle of law, this Court would not ordinarily like to interfere with the suspension orders lightly, since suspension is merely a temporary deprivation of





one's status and does not amount to penalty and it is normally ordered when the allegations of misconduct or corruption are under scrutiny. Such suspension neither alters the status of the person holding the office nor affects them in any other form but that is in the case of the person where the rule of master-servant applies. The elected representatives of the public cannot be equated with that of the Government employees since their offices are held for a fixed term and the Court cannot shirk its responsibility to intervene in the matter as and when a glaring case of the kind is brought before it. Even in such like cases, the power should be exercised sparingly and that too with utmost care and caution.

19. This Court is not dealing with the arguments advanced by the rival sides, in detail, as expression of any view by this Court may prejudice the ongoing enquiry proceedings initiated against the petitioner. All the judgments cited by the petitioner are not applicable, considering the specific facts of the case and the nature of allegations levelled against the petitioner.

20. In view of the discussions made herein above, this Court finds no merit and substance in these writ petitions and the same are liable to be and are hereby rejected.

21. The stay applications and all pending applications, if any, also stand rejected.

22. The respondents are expected to complete the ongoing enquiry proceedings against the petitioner expeditiously as early as possible but not beyond a period of three months from the date of receipt of certified copy of this order, as an elected public





representative is under suspension and she cannot be allowed to remain under suspension for an indefinite period.

23. It is made clear that respondents/authority shall conclude the ongoing enquiry, on its merits, after affording due opportunity of hearing to the petitioner, without being influenced by any of the observations made herein by this Court.



(ANOOP KUMAR DHAND),J

Karan/134-135