



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 15734/2025

Ramswroop Bhati S/o Mohan Lal Bhati, Aged About 38 Years,
Ward No.3, Jaitaran District Beawar.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Director Cum Secretary, Directorate Local Self Department, Jaipur.
2. The Dy. Director (Regional), Local Self Department, Ajmer.
3. Dy. Director (Vigilance), Local Self Department, Jaipur.
4. Asstt. Director (Vigilance), Local Self Department, Jaipur.
5. Municipal Board Jaitaran, District Beawar Through Its Executive Officer.
6. Avinash Gehlot, Local Mla Jaitaran District Beawar. Presently Cabinet Minister, Department Of Social Welfare And Justice, Govt. Of Rajasthan, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Ramawatar Singh Mr. Yuvraj Singh
For Respondent(s)	:	Mr. Rajesh Panwar, AAG assisted by Mr. Ayush Gehlot Mr. Monal Chugh

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

Reportable

29/08/2025

By way of filing the instant writ petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:-

"It is, therefore, most humbly and respectfully prayed that this writ petition may kindly be allowed and by an appropriate writ, order or direction:



(i) *The impugned order of suspension dated 11.08.2025 (Ann.26) passed by respondent no. 1 kindly be declare highly arbitrary, unjust, malafide one and same may kindly be quashed and set aside.*

(ii) *The inquiry initiated by the respondent no. 1 under section 39 of the Act of 2009 in pursuance of the preliminary inquiry report dated 09.07.2025 and show cause notice dated 01.08.2025 may kindly be summoned.*

(iii) *The entire proceedings in pursuance of the preliminary inquiry report dated 09.07.2025 and show cause notice dated 01.08.2025 may kindly be declared highly arbitrary, unjust and same may kindly be quashed and set aside."*

2. With the consent of the parties, the present writ petition itself is being heard finally and decided on its merits.

3. Learned counsel for the petitioner submitted that the petitioner is an elected representative holding the post of Chairman of Municipal Board, Jaitaran.

4. Learned counsel vehemently contended that the petitioner has been placed under suspension malafidely by the Director, Local Self Government, Government of Rajasthan, Jaipur- Respondent No.1 in arbitrary exercise of the powers conferred under Section 39 of the Rajasthan Municipalities Act, 2009 (*hereinafter* referred as 'the Act of 2009') vide order impugned dated 11.08.2025.

5. To substantiate this contention, learned counsel submitted that prior to issuance of the impugned order of suspension dated 11.08.2025, the respondent No.1 vide order dated 26.05.2025 suspended the petitioner on the ground of alleged illegalities committed by him in issuing *pattas* during the campaigning of '*Prashashan Shahron Ke Sang Abhiyan, 2021*'. Learned counsel submitted that the order of suspension dated 26.05.2025 was challenged by the petitioner before this Court by way of filing S.B. CWP No.11384/2025: "**Ram Swaroop Bhati v. State of**



Rajasthan & Ors.”. He further submitted that this Court after hearing the parties vide order dated 11.06.2025 has stayed the effect and operation of the suspension order dated 26.05.2025. A direction was further issued to the respondents to complete the judicial inquiry against the petitioner in conformity with the provisions of the Act of 2009, within a period of two months.

6. Learned counsel submitted that after order of suspension dated 26.05.2025 was stayed by this Court, the respondents, only with a view to dislodge the petitioner from the present post on the basis of complaint dated 18.05.2025 received by them from one Devish Kuldeep with regard to issuance of certain residential *pattas* by the Municipal Board, Jaitaran, in alleged violation of the master plan and the procedure provided under relevant Rules and Township Policy- 2010, the Assistant Director (Vigilance) of the respondent department vide a letter dated 23.07.2024 called a factual report from Executive Officer of Municipal Board, Jaitaran.

7. Learned counsel submitted that the Executive Officer, Municipal Board, Jaitaran in his report dated 04.07.2025 did not express any definite opinion regarding issuance of *pattas* by the petitioner in violation of the master plan and the procedure provided under relevant Rules and Township Policy- 2010, however, while concluding the report, it was also stated that the land qua which the residential *pattas* have been issued falls within the prohibited area of peripheral control area as per the master plan.

8. Learned counsel submitted that despite no definite finding regarding illegality or irregularity being committed by the petitioner in issuance of such *pattas* has been recorded by the



Executive Officer of Municipal Board, Jaitaran in his report dated 04.07.2025, yet the Deputy Director (Regional) Local Self Government, Ajmer in the communication dated 09.07.2025 sent by him to the Assistant Director (Vigilance), Local Self Government Rajasthan, Jaipur stated that as per the facts and documents provided to him by the Executive Officer Municipal Board, Jaitaran with his report, it appears that the petitioner had committed illegality in issuing 58 residential plots.

9. The Director, Local Self Government of Rajasthan, Jaipur thereupon, issued a show cause notice dated 01.08.2025 to the petitioner to which reply was filed by the petitioner on 11.08.2025. The petitioner in the reply to the show cause notice dated 01.08.2025 denied all the allegations. Learned counsel submitted that without considering the reply dated 11.08.2025 submitted by the petitioner, the Director Local Self Government of Rajasthan, Jaipur vide order dated 11.08.2025 suspended the petitioner which is under challenge in the present writ petition.

10. Navigating this Court through the various provisions of the Act of 2009, Township Policy- 2010, Rajasthan Land Revenue Act, 1956 and Rajasthan Urban Areas (Permission for use of Agricultural Land for Non-agricultural Purposes and Allotment Rules, 2012), learned counsel for the petitioner submitted that right from the submission of the application till grant of *pattas*, the entire proceedings are required to be undertaken by the Engineers, ATP, if posted or Senior Assistants, Executive Officer etc. It is only when the entire proceedings are completed by the officials of Municipality with their recommendation for issue or denial of *pattas* in favour of the applicants, the role of Chairman of



the Municipality who is also a head of the Empower Committee of the Municipality constituted for this purpose comes in the picture. A Chairman who is not a technical expert is not supposed to interfere with the day to day working of the technical experts posted in the Municipality. Learned counsel submitted that there is no provision under any act, rule or circular on the basis of which decision to issue *pattas* of any nature can be issued/circulated by the Chairman independently without holding an inquiry or receiving report by the officials of Municipality. He submitted that as a matter of fact, before placing a file for signature of Chairman for issue of *patta*, the sub-ordinate authorities are/were under an obligation to check the entire documents and examine the same in respect thereof.

11. Lastly, learned counsel submitted that no material whatsoever has been placed on record to establish that the petitioner by misusing his position has pressurized officials of the Municipal Board to submit report for issuance of *pattas* in the present case in a specific manner or had issued 58 residential *pattas* for certain extraneous considerations. He submitted that in the present case, the *pattas* in question were issued/signed by the petitioner under a *bona fide* impression that the entire documents have been properly checked by the concerned authorities/officials of the Municipal Board, Jaitaran. On these grounds, learned counsel implored this Court to quash and set aside the order of suspension dated 11.08.2025 issued by the Director, Local Self Government of Rajasthan, Jaipur.

12. *Per contra*, learned counsel for the respondent vehemently and fervently submitted that since the order of suspension dated



11.08.2025 has been issued by the respondent- Director, Local Self Government of Rajasthan, Jaipur after taking into consideration the facts and circumstances of the case in exercise of the powers vested on him in Section 39 of the Act of 2009, the same does not call for any interference by this Court.

13. Learned counsel for the respondent submitted that it is totally wrong to contend that the petitioner has been suspended only with a view to overcome the interim order dated 11.06.2025 passed by this Court in S.B. CWP No.11384/2025: "**Ram Swaroop Bhati v. State of Rajasthan & Ors.**" He submitted that the allegations levelled against the petitioner in the complaint received by the Deputy Director (Vigilance) are totally different than those allegations of irregularities committed by him during the 'campaign of *Prashashan Shashron Ke Sang Abhiyan, 2021*'. He further submitted that in the fact finding inquiry conducted against the petitioner, the allegations levelled against him by Devish Kuldeep in complaint dated 18.05.2025 have *prima facie* found to be correct and, therefore, an order to suspend the petitioner till completion of judicial inquiry initiated against him as per Section 39 (3) of the Act of 2009 was passed. Learned counsel submitted that in case, the petitioner is permitted to continue on the post of Chairman, Municipal Board, Jaitaran, then the possibility of his tampering with the records and influencing the witnesses cannot be ruled out.

14. Learned counsel submitted that the argument of learned counsel for the petitioner that he being the Chairman of the Municipality was not responsible to meticulously examine the records before issuing *pattas* is not tenable in the eyes of law as



the Chairperson of the Municipality and the Empowered Committee was ultimately responsible to check the veracity of all the documents and ensure that no mandatory rules/provisions under relevant statute are being violated.

15. He further submitted that upon receiving the complaint with regard to the alleged irregularity in issuance of *patta*, the steps to initiate disciplinary inquiry against other erring officers of the Municipal Board, Jaitaran have already been taken.

16. Drawing attention of the Court towards order dated 21.04.2022, learned counsel submitted that in the present case *pattas* have been issued for establishing a residential colony (Ayodhya Nagar) in violation of master plan of Jaitaran (2009-2033) though apparently, *Khasra Nos.*17, 18, 19 and 20 qua which the *pattas* have been issued are falling under the Peripheral Control Belt. Further, requisite internal and external development charges have not been deposited by the *patta* holders thereby causing financial loss to the Municipality. Learned counsel thus submitted that the entire proceedings relating to issuance of *pattas* have been conducted *de hors* the rules. The Empowered Committee of which the petitioner is Chairman deliberately, approved the layout plan and granted *patta* over the Peripheral and Green Belt.

17. Attention of the Court was also drawn towards the report of the Senior Town Planner, Jodhpur Zone, Jodhpur dated 02.05.2024 in which the Senior Town Planner indicated various irregularities and illegalities committed by the Municipal Board, Jaitaran in granting *pattas* over the Peripheral and Green Belt. Learned counsel submitted that as per the order dated 28.09.2021 issued



by the respondent department an Empowered Committee had to be constituted with mayor/chairman/president of the local body (Nagar Palika, Nagar Parishad, Municipal Corporation); Senior Town Planner; Senior Engineer and Executive Officer of the local body. In the present case, the Empowered Committed was however, committed in the absence of Senior Town Planner and by including Junior Engineer. The Constitution of Empowered Committee was thus improper and illegal.

18. Learned counsel empathetically submitted that in the present case, the portion of land qua which the *pattas* were issued on the basis of layout plan, was never approved in accordance with law. This is for the reason that as per the order of State Government dated 21.04.2022 before conducting the layout proceedings under Section 90-A of the Land Revenue Act, a technical report has to be prepared by the Town Planner and in case, the Town Planner is not available/posted in the Municipality concerned, then the report has to be prepared by some other Senior Town Planner whereas in the present case, the aforesaid requirements of the order dated 21.04.2022 was not fully complied with.

19. Learned counsel for the respondent submitted that since the decision to suspend the petitioner who is an elected representative has been taken on the basis of the fact finding inquiry or preliminary inquiry, as contemplated under Section 39 of the Act of 2009 then, the same is not required to be interfered with by this Court particularly when no procedural irregularity in issuing order of suspension has been pointed out by the petitioner in the present case.



20. Learned counsel in support of his arguments has placed reliance on the following judgments:-

1. ***Nirmal Kumar Pitaliya v. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.17285/2021).***
2. ***Monika Khatotiya v. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.13606/2025).***
3. ***Smt. Sita Devi Gujar v. State of Rajasthan & Ors. (D.B. Spl. Appl. Writ No.239/2025).***
4. ***Rasida Khatoon v. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.11862/2024).***

21. In *rebuttal*, learned counsel for the petitioner submitted that though it is true that initially, layout plan for establishing a residential colony namely 'Ayodhya Nagar' was submitted but later on, on the basis of applications submitted by the individual applicants, individual *pattas* were issued to them after deposition of their taxes and charges for issuance of such *patta*. Learned counsel submitted that it is totally wrong to contend that any *patta* has been issued in the prohibited area.

22. Learned counsel contended that the Empowered Committee in the Municipality as per the order dated 28.09.2021, can be constituted in the absence of Senior Town Planner/Town Planner and the minimum quorum required for conducting meeting of the Empowered Committee is of three presiding members only therefore, no illegality whatsoever has been done by the petitioner in constituting the Empowered Committee and conducting its meetings. The relevant provision under order dated 28.09.2021 in this regard reads as under:-

"(i) उपरोक्त एम्पावर्ड कमेटी के द्वारा आवश्यकता अनुरूप विधि अधिकारी/लेखाधिकारी को विशेष आमन्त्रित सदस्य के रूप में आमन्त्रित किया जा सकेगा।

(ii) जिन नगरीय निकायों में नगर नियोजन अधिकारी पदस्थापित नहीं है, तो संबंधित जिला नगर नियोजक, नगर नियोजन विभाग अथवा मुख्य नगर नियोजक, राजस्थान द्वारा अधिकृत नगर नियोजक को सदस्य के रूप में आमन्त्रित किया जा सकेगा।

(iii) उपरोक्त एम्पावर्ड कमेटी में न्यूनतम 3 सदस्यों का कोरम होगा, तथा उपस्थित सदस्यों के बहुमत से निर्णय लिये जावेंगे। अध्यक्ष द्वारा बैठक में उपस्थित नहीं हो पाने की स्थिति में मुख्य नगर पालिका अधिकारी द्वारा बैठक की





अध्यक्षता की जाएगी। कमेटी के सदस्य सचिव का दायित्व होगा कि कमेटी की बैठक के दिन ही बैठक कार्यवाही विवरण जारी किया जाकर प्रति निकाय की वेबसाइट पर अपलोड किया जाएगा।"

23. In support of his rebutted, learned counsel for the petitioner has placed reliance upon the following judgments/orders:-

1. **Meena Vyas v. State of Rajasthan & Anr. (S.B. Civil Writ Petition No.7999/2008).**
2. **Jan Mohd. v. The State of Rajasthan & Ors. (D.B. C.W.P. No.251/1992).**
3. **Bheru Singh v. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.4390/2024).**

24. Heard learned counsel for the parties at Bar. Perused the material available on record.

25. In the present case, detailed arguments on each of the charge levelled against the petitioner in the show cause notice dated 01.08.2025 have been made before this Court. However, keeping in view the fact that a judicial inquiry against the petitioner has already been ordered in conformity with the provisions of Municipality Act, 2009, this Court is not inclined to examine the merits of the allegations levelled against the petitioner.

26. In the case at hand, the petitioner is an elected representative working as Chairman of Municipal Board, Jaitaran prior to passing of impugned order of suspension, he was suspended vide order dated 26.05.2025 in exercise of the powers under Section 39 (6) of the Act of 2009. The order of suspension dated 26.05.2025 was stayed by this Court vide order dated 11.06.2025 by passing a detailed order. The respondents, after passing of the order dated 11.06.2025, acted in a lightning speed against the petitioner and completed fact finding inquiry against him pursuant to the complaint dated 18.05.2024 filed by Devish



Kuldeep and again suspended him vide the impugned order dated 11.08.2025. It is pertinent to note here that till 11.06.2025 after receiving complaint from Devish Kuldeep, respondents only called report from Executive Officer Municipal Board, Jaitaran which did not disclose any gross perversity or irregularity in issuing the *pattas* at the end of the petitioner.

27. Be that as it may, the detailed procedure provided under the Municipality Act, Land Revenue Act and Rajasthan Urban Areas (Permission for use of Agricultural Land for Non-agricultural Purposes and Allotment Rules, 2012) embarks a duty upon the technical and sub-ordinate staff of the Municipality to check the documents submitted by an applicant seeking issuance of *patta* in his favour and after holding an inquiry in the matter placed it before the Empowered Committee/Chairman of the Municipality for approval and issuance of *pattas*. Thus, the question as to whether all the concerned Municipality Officials acted under the influence of the Chairman i.e. petitioner before processing the files and preparing the *pattas* is a subject of inquiry/judicial inquiry initiated by the respondents against the petitioner and other officials of the Municipalities.

28. In the opinion of this Court, the object of placing an incumbent under suspension against whom inquiry/judicial inquiry has already been initiated is to avoid risk of influencing witnesses, tampering with records, or ensuring a fair investigation. However, the yardsticks applicable for suspending a public representative would always be different from suspending a government servant. A public representative gets elected as member of the local body for a limited period of time by contesting the elections. While



holding the office, a public representative is expected to work with the aid and advice of the government officials in the larger public interest. Otherwise, he does not possess any technical expertise to discharge his duties. Thus, a particular act has been done by the elected representative i.e. issuance of *patta* in the present case when the files are placed before him/her after examination of documents by the government officials then he/she is normally expected to accept the same as such unless something contrary to it is brought on record. This Court is of the firm view that if a public representative is allowed to be suspended on mere complaints or suspicion of committing irregularities without any specific allegation of corruption or proof in support thereof then the same would not only be against the wishes of the public at large which had elected him but will also be detrimental to his own interest as he would not get full tenure in the office to discharge the public work for which he has been elected. The elections in India ensure representation of different groups, communities and ideologies in the democratic process and re-affirm faith of public in law institutions and democracy itself. Therefore, a public representative should be allowed to hold office, to take decisions in public interest till completion of his tenure to represent the will of the electors. It is a settled law that the mere availability of power to suspend does not automatically mean that suspension must be imposed in every case. The power to place under suspension available to respondent No.1 under Section 39 of the Act of 2009 is not a mandatory or mechanical consequence but a discretionary power to be exercised cautiously and judiciously in



the cases where it is imperative to prevent an elected representative from discharging his duties.

29. At the same time, this Court lose sight of the fact that a public representative while discharging his duties is required to maintain high standards of honesty and integrity. Thus, keeping in view the aforesaid factual situation in the matter, this Court deems it just and proper to direct respondent No.1 to seal the entire proceedings pertaining issuance to *pattas* in question and place it before the judicial officer before whom the judicial inquiry shall be conducted against the petitioner. It is expected from the judicial officer that the judicial inquiry against the petitioner shall be conducted as expeditiously as possible without granting unnecessary adjournments to the petitioner.

30. In view of the discussions made above, the instant writ petition merits acceptance and the same is allowed. The suspension order dated 11.08.2025 issued against the petitioner by the respondent No.1 is quashed and set aside.

31. All pending applications, if any, stand dismissed.

(KULDEEP MATHUR),J

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