



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

S.B. Civil Writ Petition No. 16232/2024

Indra Dudi W/o Shri Sahi Ram, aged about 58 Years, R/o Village and Post Lamba, Tehsil Chirawa, Distt. Jhunjhunu (Rajasthan).

-----Petitioner

Versus

1. State of Rajasthan, through its Additional Chief Secretary, Rural Development and Panchayati Raj Department Government of Rajasthan, at Government Secretariat, Jaipur.
2. The Additional Commissioner & Deputy Secretary to Government-II (Inquiry), Panchayati Raj Department Government of Rajasthan at Government Secretariat, Jaipur.
3. The Chief Executive Officer, Zila Parishad Jhunjhunu.
4. The District Collector, District Jhunjhunu.

-----Respondents

For Petitioner(s)	:	Mr. R.N. Mathur, Sr. Adv. assisted by Mr. Himanshu Jain
For Respondent(s)	:	Mr. Rajendra Prasad, Advocate General assisted by Mr. Kapil Prakash Mathur, AAG, Ms. Harshita Thakral and Mr. Tanay Goyal

**JUSTICE ANOOP KUMAR DHAND**

**Order**

Reserved on	<u>21/04/2025</u>
Pronounced on	<u>24/04/2025</u>
Reportable	

1. The Hon'ble Apex Court vide order dated 04.04.2025 while deciding the Special Leave to Appeal (C) No.9506/2025 submitted by the petitioner has directed this Court to decide this writ petition on its merits within a period of four weeks.



2. In pursuance of the aforesaid order, with the consent of counsel for the parties, final arguments have been heard and the writ petition is being decided by the present order.

3. The instant writ petition has been preferred with the following prayer:

- “(i) To quash and set aside the impugned suspension order dated 12.10.2024 (Annexure-5) so issued by the respondents.  
(ii) To quash and set aside show cause notice dated 12.10.2024 (Annexure-6) so issued to the petitioner by the respondents.  
(iii) The respondents may be directed to continue the petitioner to hold the post of Pradhan, Panchayat Samiti-Chirawa during the pendency of enquiry.  
(iv). Any other order or direction which may be considered just and fair in facts and circumstances of the case may kindly be passed in favour of the petitioner.  
(v) Cost of the writ petition may kindly be awarded to the petitioner.”

4. By way of filing this writ petition, the petitioner has challenged the impugned suspension order dated 12.10.2024 as well as the charge-sheet issued to her on the same day.

5. Learned counsel for the petitioner submits that the petitioner was elected as *Pradhan* of Panchayat Samiti, Chirawa, District Jhunjhunu on 10.12.2020. Thereafter, on a complaint submitted by one of the members of the Samiti-Rohitash, proceedings of no-confidence motion were initiated against the petitioner on 09.07.2024, but the same were dropped on 18.07.2024. Counsel submits that within a short span of five days i.e. 24.07.2024, an enquiry was initiated against the petitioner with an intention to





remove her from the post of *Pradhan*. Counsel submits that the Preliminary Enquiry was conducted against the petitioner on 05.08.2024, which concluded with the decision to conduct a detailed enquiry, but instead of conducting a detailed enquiry, the petitioner was placed under suspension on 12.10.2024 and was served with a charge-sheet on the same day. Counsel submits that the aforesaid exercise was carried out by the respondents with a mala-fide ill intention on a day which was declared as holiday on account of *Dussehra* and the same was in counterblast to the failure of the proceedings of no confidence motion initiated against the petitioner. Counsel submits that the reason for placing the petitioner under suspension on second Saturday/ *Dussehra* holiday i.e. on 12.10.2024, was obvious, as the Code of Conduct was declared by the State on account of Assembly Elections w.e.f. 15.10.2024.

6. Counsel submits that as per Section 38 of the Rajasthan Panchayati Raj Act, 1994 (for short 'the Act of 1994'), a person cannot be placed under suspension, unless any enquiry is initiated against him/her. When a member refuses to act or becomes incapable to act as such, or is guilty of misconduct in the discharge of his/her duties or any disgraceful conduct, the State Government may after affording opportunity of hearing and making enquiry against him/her, may place him/her under suspension. Counsel submits that in the instant matter, none of the clauses are applicable as there was no disgraceful conduct or misconduct on the part of the petitioner in discharging her duties as *Pradhan*. Counsel submits that even the procedure contained





under Rule 22 of the Rajasthan Panchayati Raj Rules, 1996 (for short 'the Rules of 1996') were not followed prior to passing of the order impugned. Counsel submits that in all eleven charges have been levelled against the petitioner and the charges No.1 to 6 pertain to violation of the provisions contained under The Rajasthan Transparency Public Procurement Act, 2012 (for short 'RTPP Act, 2012') and The Rajasthan Transparency Public Procurement Rules, 2013 (for short 'RTPP Rules, 2013'). Counsel submits that as per the circular issued by the State, for the purpose of conducting any tender process, a Committee at Panchayat level is required to look into the matter and the competent persons of the Government in this regard are Development Officer/ Junior Engineer and Senior Accounts Officer of the concerned Panchayat Samiti. Counsel submits that being *Pradhan* of the Panchayat Samiti, the petitioner has nothing to do with the aforesaid affairs. Counsel submits that the alleged charges pertains to the year 2021 to 2024, but no action was taken at the relevant time and the present action has been taken against the petitioner at the fag end of her tenure on the post of *Pradhan*. Counsel submits that, so far as charges with regard to non-receipt of higher rent are concerned, the higher rent was not charged from the tenants of the Samiti on account of outbreak of the COVID-19 pandemic. Counsel submits that there was no misconduct on the part of the petitioner, but the entire exercise has been done by the respondents to give benefit of charge to the complainant at whose instance, the no confidence motion proceedings were initiated. He further argued that the charge



cannot be handed over to the complainant as in such eventuality, in terms of Section 25 of the Act of 1994, charge could be handed-over to the Deputy Chairperson, hence, malice/ ill-intention on the part of the respondents is clear from the aforesaid act. He further argued that the petitioner is an elected representative of the public and she cannot be removed/ suspended in a routine manner, unless grave charges are levelled against her. Counsel submits that the initial Preliminary Enquiry remained inconclusive, which led to a recommendation for a detailed enquiry. However, without conducting such a detailed enquiry, impugned charge-sheet was directly issued, and the petitioner was placed under suspension. Under these circumstances, interference of this Court is warranted.

7. In support of his arguments, counsel has placed reliance upon the following judgments:

1. **Ravi Yashvant Bhoir Vs. District Collector, Raigad & Others** reported in **2012 (4) SCC 407.**
2. **Pradeep Hinger Vs. State of Rajasthan & Ors.** reported in **2008 (1) WLC 294.**
3. **Geeta Devi Narooka Vs. State of Rajasthan** reported in **2008 (2) WLC 261.**
4. **Smt. Vimla Devi vs. State of Rajasthan & Others** reported in **2007 (4) WLC 378.**

8. Per contra, learned Advocate General along with Mr. Kapil Prakash Mathur, AAG opposed the arguments raised by the counsel for the petitioner and submitted that the petitioner was elected as *Pradhan* in the year 2020 and no action was taken against her till the year 2024. Had there been any mala fide and





impropriety on the part of the State, then certainly, action could have been taken against her between the years 2020 to 2024. Counsel submits that when the complaint with regard to corruption and financial irregularities was received, the proceedings were set in motion. Counsel submits that an application was submitted by seven members of the Panchayat Samiti for initiating the proceedings of no confidence motion against the petitioner and the same has nothing to do with the State. The proceedings were initiated by them but the same were failed, and there was no role of the State in between. The role of the State came into picture on receipt of the complaint against the petitioner with regard to allegation of corruption and financial irregularities and thereafter, a Preliminary Enquiry was conducted in the form of fact finding Committee of six members, wherein, the prima facie role and involvement of the petitioner was found and the decision was taken for conducting further elaborate enquiry. As a consequence thereof, charges were framed and charge-sheet was served upon the petitioner and thereafter, the petitioner was placed under suspension. Counsel submits that the charges levelled against the petitioner are of grave nature as the petitioner, being *Pradhan* of the Panchayat Samiti, has overlooked the material aspect and made excess payment of lakhs of rupees, which has caused financial irregularities. Counsel submits that the aforesaid act on behalf of the petitioner as well as other delinquents amounts to corruption, which is treated as "cancer" in the society. Counsel submits that the petitioner being public representative cannot be allowed to act in such a disgraceful





manner. Counsel submits that as per the provisions contained under Section 33 of the Act of 1994, certain duties have been assigned to *Pradhan* and the petitioner has failed to discharge the aforesaid duties in conducting the supervision on the activities of the Panchayat Samiti. Counsel submits that after conducting the Preliminary Enquiry, the Government took a decision to conduct further enquiry upon the allegations levelled against the petitioner and on the basis thereof, the charge-sheet was served and the petitioner was placed under suspension on 12.10.2024. Counsel submits that though the order was passed on a holiday, the Government operates round the clock; therefore, there was no mala fide intention on the part of any State official. It is further submitted that the Model Code of Conduct came into effect on 15.08.2024, but the entire proceedings against the petitioner were initiated prior to that date, based on the complaint and Preliminary Enquiry, conducted against her. Counsel also submits that under Rule 22 of the Rules of 1996, conducting a Preliminary Enquiry is not mandatory. Nevertheless, one was carried out, and the petitioner's prima facie involvement was established therein. Consequently, a decision was taken to proceed with a detailed enquiry, and a charge-sheet was duly served upon her. Moreover, it is contended that the petitioner cannot rely on the audit report submitted by the Audit Officer, as it is not a final document. In the cases where complaints regarding corruption or financial irregularities are received, an enquiry is warranted. Accordingly, based on the actions and role attributed to the petitioner, disciplinary proceedings were initiated, and appropriate action was



taken. Due to the aforesaid financial irregularities & roles pointed out, the action was required. Counsel submits that looking to the charges levelled against the petitioner, her actions amount to misconduct, in view of Section 38 of the Act of 1994, that is why, while invoking the provisions, contained under Section 38(4) of the Act of 1994, she was placed under suspension. Counsel contends that this Court cannot interfere with the merits of the allegations levelled in the charge-sheet, unless it is established that the authority initiating the proceedings lacks competence.

9. Counsel submits that this Court in the case of **Jagdish Prasad vs. The State of Rajasthan and Ors. (SB Civil Writ Petition No.13682/2024)** has taken a view that a delinquent, instead of making a prayer of quashing of charge-sheet at the initial stage is required to submit reply before the appropriate authority and wait for conclusion of the proceedings.

10. In support of his contentions, counsel for the respondents has placed reliance upon the following judgments passed by the Co-ordinate Bench of this Court:

1. **Sardar Meena vs. The State of Rajasthan and Ors. (S.B. Civil Writ Petition No.6800/2021).**

2. **Devender Singh Shekhawat vs. State of Rajasthan and Ors. (S.B. Civil Writ Petition No.14381/2023).**

11. Counsel submits that the judgment passed by the Co-ordinate Bench of this Court in the case of **Sardar Meena (supra)** has been upheld by the Apex Court. Counsel submits that in view of the submissions made herein above, interference of this





Court is not warranted and the writ petition is liable to be rejected.

12. In rebuttal, counsel for the petitioner submitted that there is no allegation of corruption against the petitioner in the entire Preliminary Enquiry conducted against the petitioner. The word "corruption" was used by the complainant in his complaint and the same has nothing to do with the charges levelled against the petitioner. Counsel submits that the sum and substance of the charges, levelled against the petitioner, is supervisory negligence and the same does not fall within the purview of misconduct, hence, interference of this Court is warranted.

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

14. Before proceeding further with the merits of the cases, it would be gainful to quote the extract of Section of 38 of the Act of 1994 and the same reads as under:

**"Section 38. Removal and Suspension.-**

(1) 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.

(2) The Chairperson or the Deputy Chairperson removed under Sub-sec. (1) may at the discretion of the State Government also be removed from the membership, of any of the Panchayati Raj Institution concerned.

(3) The member or the Chairperson or the Deputy Chairperson removed under Sub-sec. (1) or against whom finding have been recorded under the proviso to that sub-sec, shall not be eligible for being chosen under this 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.

(4) The State Government may suspended any member including a Chairperson or a Deputy Chairperson of a Panchayati Raj Institution against whom an enquiry has been initiated under Sub-sec. (1) or against whom any criminal proceedings in regard to an offense involving moral turpitude is pending trial in a Court of law and such person shall stand debarred from taking part in any act or proceeding of the Panchayati Raj Institution concerned while being under such suspension.

Provided that the State Government may also suspend any Panch on the recommendation of the Ward Sabha or a Sarpanch on the recommendation of the Gram Sabha, but the State Government shall do so only when a resolution to that effect passed by a Ward Sabha, or a Gram Sabha, as the case may be, is referred by the State Government to the Collector for convening a special meeting of the Ward Sabha or the Gram Sabha, as the case may





be, for finally ascertaining the wished of the members and the members present in the meeting so convened by the Collector and presided over by his nominee, reaffirm the resolution seeking suspension of the Panch or the Sarpanch, as the case may be, by a majority of two-third of the members present and voting.

Providing further that no resolution seeking suspension of the Panch or Sarpanch shall be moved or passed before the completion of a tenure of two years by a Panch or a Sarpanch, as the case may be.

(5) The decision of the State Government on any matter arising under this section shall, subject to any order made under Sec. 97, be final and shall not be liable to be questioned in any Court of law."

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 become incapable of acting as such or is guilty of misconduct in discharge of duties or any disgraceful conduct. Sub-section (4) of Section 38 says that such person can be suspended against whom any enquiry under Sub-section (1) of the Section 38 has been initiated.

15. Here in the instant case, a complaint was made against the petitioner with regard to corruption and financial irregularities, while discharging her duties on the post of *Pardhan*. The matter was enquired by the fact finding committee of six members who prima facie found the 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. After examining the report of Preliminary Enquiry a charge-sheet was served upon the petitioner wherein the following charges have been levelled against her, which read as under:



“राजस्थान पंचायती राज नियम 1996 के नियम 22(2) के अन्तर्गत आरोप पत्र मय विवरण विरुद्ध श्रीमती इन्द्रा डूडी, प्रधान, पंचायत समिति चिडावा, जिला झुंझुनू।

आरोप पत्र मय विवरण

1. यह है कि आप द्वारा वित्तीय वर्ष 2021-22 में पंचायत समिति चिडावा द्वारा पम्प सैट सौलर पम्प सैट, सैम्प वैल निर्माण कार्यों के लिए 40.00 लाख रु की निविदा के विरुद्ध लगभग 70.00 लाख रु का मै. पाल लघु उद्योग सिंघाना को भुगतान किया तथा उक्त फार्म से नियमानुसार 1.00 लाख रूपये प्रतिभूति राशि भी जमा नहीं करवाई। उक्त फर्म को निविदा राशि से अधिक भुगतान अनियमित व्यय है। जिसके लिए आप आरोपित है।
2. यह है कि मैं योगराज बिल्डर्स एवं डवलपर्स सिंघाना जिसकी निविदा बीएसआर के बराबर थी तथा उक्त फर्म द्वारा मै. पाल लघु उद्योग सिंघाना के बराबर सहमति देने पर आपने कय समिति के अध्यक्ष की हैसियत से अनुमोदित कर कार्यदिश दिलवाया जो आरटीपीपी एक्ट 2012 एवं आरटीपीपी नियम 2013 का उल्लंघन है। जिसके लिए आप आरोपित है।
3. यह है कि वित्तीय वर्ष 2021-22 में महात्मा गांधी नरेगा एवं अन्य योजनाओं हेतु सामग्री उपापन के लिए 70.00 लाख रु की निविदा के विरुद्ध फर्म मै. पी.एम.एस. कस्ट्र. कम्पनी को (83.00 लाख से अधिक राशि का भुगतान किया तथा उक्त निविदा पेटे कार्य सम्पादन हेतु प्रतिभूति राशि 1.75 लाख रूपय जमा नहीं करवाई गई। जिसके लिए आप आरोपित है।
4. यह है कि वित्तीय वर्ष 2022-23 हेतु पेयजल कार्यों के लिए पूर्व वर्ष 2021-22 में मैं पाल लघु उद्योग सिंघाना एवं मै. योगराज बिल्डर्स एवं डवलपर्स सिंघाना की दरे अनुमोदित कर आरटीपीपी एक्ट 2012 एवं आरटीपीपी नियम 2013 का उल्लंघन किया है। जिसके लिए आप आरोपित है।
5. यह है कि वित्तीय वर्ष 2022-23 के लिए महात्मा गांधी नरेगा एवं अन्य योजनाओं हेतु सामग्री उपापन के लिए मै. शुभम कन्ट्र, कम्पनी चिडावा की दरे पुनः एक वर्ष के लिए अनुमोदित कर आरटीपीपी एक्ट 2012 एवं



आरटीपीपी नियम 2013 का उल्लंघन किया है। जिसके लिए आप आरोपित है।

6. वित्तीय वर्ष 2023-24 के लिए मै. शुभम कन्ट्र, कम्पनी चिडावा की दरों को पुनः एक वर्ष बढ़ाकर आपने आरटीपीपी एक्ट 2012 एवं आरटीपीपी नियम 2013 का उल्लंघन किया है। जिसके लिए आप आरोपित है।

7. यह है कि पंचायत समिति चिडावा की दुकान नीलामी कमेटी के सदस्यों द्वारा वर्ष 2017 में 2 दुकाने 4381/- प्रतिमाह किराये व 5.00 लाख रुपये धरोहर राशि जमा करके आवंटित की थी। इन्हीं दुकानों को नीलामी कमेटी द्वारा दुकानदारों के प्रार्थना पत्र पर निर्णय करते हुए वर्ष 2021 में आवंटित 8 दुकानों के मासिक किराया रुपये 1331/- व धरोहर राशि 1.50 लाख रुपये लेकर इनको माह अक्टूबर 2021 से आवंटित कर दी गई। इससे समिति के सदस्यों द्वारा मासिक किराया व धरोहर राशि जमा करने में राजकोप को हानि पहुंचाई है तथा अपने पदीय कर्तव्यों का निर्वहन सही रूप से नहीं किया है। जिसके लिए आप आरोपित है।

8. यह है कि पंचायत समिति चिडावा में वर्ष 2021 में आवंटित 8 दुकानों में से कुछ दुकान समिति के सदस्यों द्वारा अपने स्वयं के निजी रिश्तेदारों के नाम आवंटित करा ली है जो नियमविरुद्ध है। आपको उक्त गलत आवंटन के बारे में पूर्ण जानकारी होने के बाद भी यह कृत्य आप द्वारा जान-बूझकर करवाया है। जिसके लिए आप आरोपित है।

9. यह है कि पंचायत समिति साधारण सभा बैठक कार्यवाही रजिस्टर में वर्ष 2021-22 2022-23 एवं 2023-24 के एसएफसी/एफएफसी योजना की वार्षिक कार्य योजना का अनुमोदन किया गया है परन्तु कार्यवाही विवरण रजिस्टर में निर्माण कार्यों का विस्तृत विवरण दर्ज नहीं किया गया है तथा स्वीकृत किये गये कार्यों के व्यय का भी कभी अनुमोदन नहीं करवाया गया है। जिसके लिए आप आरोपित है।

10. यह है कि आपने अपने पद का दुरुपयोग कर अपने पति श्री सहीराम को प्लेसमेंट एजेन्सी के माध्यम से पंचायत समिति चिडावा में वाहन चालक के रूप में नियोजित कर रखा है तथा प्लेसमेंट एजेन्सी को भुगतान पंचायत समिति की निजी आय से सक्षम स्तर से अनुमति प्राप्त किये बिना किया गया है। जिसके लिए आप आरोपित है।

11. यह है कि आप द्वारा निजी आय के मामले में राशि 50000 रूपये से अधिक व्यय के मामले में सक्षम स्तर जिला परिषद (साधारण सभा/जिला प्रमुख / मुख्य कार्यकारी अधिकारी) से स्वीकृति किसी भी कार्य में नहीं ली गई है। जिसके लिए आप आरोपित है।

उपरोक्तानुसार आपने प्रधान, पंचायत समिति चिडावा के पद पर रहते हुए पद के कर्तव्यों एवं दायित्वों के निर्वहन में अवचार एवं अपकीर्तिकर आचरण किया है जिसके लिए आप आरोपित है। अतः प्रावधानुसार आपके विरुद्ध कार्यवाही अपेक्षित है।”





After serving the above charge-sheet to the petitioner, she was placed under suspension on 12.10.2024 by the following order:



"राजस्थान सरकार  
ग्रामीण विकास एवं पंचायती राज विभाग  
(पंचायती राज विभाग)

क्रमांक:- एफ 3(45) परावि/जांच / प्रधान चिड़ावा/झुन्झुनूं/24/ई-36948

जयपुर, दिनांक-----

#### आदेश

श्रीमती इन्द्रा डूडी, प्रधान, पंचायत समिति चिड़ावा, जिला झुन्झुनूं द्वारा किये जा रहे पद का दुरूपयोग एवं भ्रष्टाचार से संबंधित शिकायत की जांच रिपोर्ट प्राप्त हुई। प्राप्त जांच रिपोर्ट में श्रीमती इन्द्रा डूडी, प्रधान, पंचायत समिति चिड़ावा, जिला झुन्झुनूं को पद का दुरूपयोग एवं भ्रष्टाचार करने के लिए दोषी पाया गया है। उक्तानुसार उक्त प्रधान, पंचायत समिति चिड़ावा का यह कृत्य राजस्थान पंचायती राज अधिनियम 1994 की धारा 38 के तहत कर्तव्यों के निर्वहन में अवचार एवं अपकीर्तिकर आचरण का दोषी होने की श्रेणी में परिचायक है। इस संबंध में आरोपी प्रधान, पंचायत समिति चिड़ावा को आरोप पत्र भी जारी किया गया है।

अतः राज्य सरकार राजस्थान पंचायती राज अधिनियम 1994 की धारा 38(4) के तहत प्रदत्त शक्तियों का प्रयोग करते हुये एतद् द्वारा श्रीमती इन्द्रा डूडी, प्रधान, पंचायत समिति चिड़ावा, जिला झुन्झुनूं को प्रधान, पंचायत समिति चिड़ावा के पद से तत्काल प्रभाव से निलंबित करती है तथा आदेश प्रदान करती है कि वे निलम्बन काल में पंचायत समिति के किसी कार्य एवं कार्यवाही में भाग नहीं लेगी। यह आदेश सक्षम स्तर से अनुमोदित है।

आज्ञा से,

अति० आयुक्त एवं  
शासन उप सचिव ॥ (जांच)"



Perusal of the charge-sheet reveals that serious allegations of financial irregularities have been levelled against the petitioner. For instance, a payment of Rs.70 lakhs was made for construction work valued at only Rs.40 lakhs. Similarly, in another case, against a tender amount of Rs.70 lakhs, an excess payment of Rs.83 lakhs was made to a firm, who even failed to deposit the required security amount of Rs.1.75 lakhs. The work orders under a particular scheme were extended in favour of one specific firm during the financial years 2022-23 and 2023-24, in violation of the provisions of the RTPP Act, 2012 and the RTPP Rules, 2013. Similarly, two shops belonging to the Panchayat Samiti were let out for Rs.4,381, whereas the remaining eight shops were leased at a lower rate of Rs.1,331. Out of the eight shops, few shops were given by the petitioner to her kith and kins. Several charges of serious nature have been levelled with regard to the corrupt practices and financial illegalities and irregularities, during her tenure on the post of *Pradhan* and such conduct of the petitioner was found to be prima facie disgraceful. That is why, detailed enquiry was to be conducted against her by way of issuing charge-sheet and she has been placed under suspension.

In the considered opinion of this Court, the correctness of the charges and the allegations cannot be decided and adjudicated by this Court in exercise of its writ jurisdiction contained under Article 226 of the Constitution of India. This Court cannot act as an Enquiry Officer to adjudicate the correctness of the allegations. Normally, a charge-sheet is not quashed prior to conclusion of the



enquiry. A charge-sheet cannot be quashed unless it is established that the same has been issued by an authority not competent to issue the same. It is settled proposition of law that the charge-sheet cannot be interfered with by the Court lightly or in a routine manner. Such aggrieved person instead of seeking quashing of the charge-sheet at the initial stage must submit his/her reply before the enquiry officer and wait for conclusion of the proceedings.

16. Various versions and cross versions have been made by the counsel appearing from the rival sides about correctness of the charges. This Court is not going into the correctness of the charges and the reply submitted by the petitioner since it is subject matter of a judicial enquiry and this Court refrains from commenting on it. This Court further makes it clear that nothing said here in this order would be taken notice of by the Enquiry Officer nor any expression of opinion would be taken to prejudice enquiry which is pending. The Enquiry Officer shall on the completion of enquiry be at liberty to draw his conclusions on the basis of material placed before him.

17. Though in view of the settled principles of law this Court would not interfere in suspension orders lightly since suspension is only a deprivation of one's status and that too temporarily, it does not amount to penalty and is normally ordered when the truth of the allegations of misconduct or corruption is under scrutiny, it neither effects the status of the person holding the office nor effects in any other form, but that is in the case of the persons where the rules of master and servant apply. The elected representative of the public cannot be equated with that of the





Government employees since these offices are held by the incumbent for a fixed period of time and the court would not shirk its responsibility to intervene in the matter as and when a glaring case of the kind is brought before it. Power even in such like cases should be used very sparingly and that too with utmost care and caution.



18. Now this Court proceeds to deal with the other argument of the counsel for the petitioner that whether there was malice and ill motive on the part of the respondents to suspend the petitioner and issue charge-sheet to her in order to remove her from the post of *Pradhan*. The petitioner contends that immediately after failure of no confidence motion, the enquiry was conducted against her due to malice on the respondents' part and hence, the impugned orders and charge-sheet were issued to her on 12.10.2024 i.e. on a holiday just three days prior to the declaration of imposition of Model Code of Conduct for the elections.

19. This Court finds no substance in the aforesaid argument of the petitioner, because initiation of no confidence motion proceedings were insisted by seven members of the Panchayat Samiti and the same remained unsuccessful. The respondents have nothing to do with the same, as the proceedings were not initiated by or at the instance of the respondents. There was no allegation of corruption or financial irregularities against the petitioner in these proceedings. These proceedings were initiated by seven members who lost interest in the functioning of the petitioner. The motion of law was set in operation when a



complaint with regard to several allegations was submitted against the petitioner. The matter was examined by the fact finding committee of six members who found involvement of the petitioner and that is why the matter was referred for conducting detailed enquiry against her and accordingly, charge-sheet was served and she was placed under suspension.

20. There is no force in the argument of the petitioner that the impugned charge-sheet and suspension order was passed on holiday i.e. on 12.10.2024. This cannot be treated as an illegality on the part of the Government. The Government Servants, who work 24 X 7 if necessary and required, are not barred from working on holidays and discharge their normal official duties. Consequently, any order passed by them, in the course of discharge of their normal duty cannot and should not be treated as invalid.

There may be more workload on the Government Officers and therefore, they had to work even on the holidays. But that does not mean that such a holiday shall be presumed as a working day like any other normal day. As such, the object of working on the holiday, is merely to reduce the workload. There is no prohibition in law for performance of any official work on a holiday and if any order is passed on any holiday, the same cannot be treated as void and invalid. The Government functions 24 hours a day for seven days a week. The charge-sheet and suspension order cannot be quashed only on this count that the same was issued on a holiday.



21. There cannot be a bald allegation of malice or ill intention against anyone unless and until such person is impleaded as party in the array of cause title with clear and specific allegations.

22. This Court is not dealing with the other arguments raised by the rival sides because any view expressed by this Court may prejudice the enquiry proceedings initiated against the petitioner.

The judgment cited by the petitioner are not relevant looking to the nature of facts of the case and the allegations levelled against the petitioner.

23. In view of the discussions made herein above, this Court finds no merit and substance in this writ petition and the same is liable to be and is hereby rejected.

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

25. Before parting with the order, this Court deals with the objection raised by the petitioner with regard to handing over the charge of the post of *Pradhan* to one of the members of Panchayat Samiti i.e. Rohitash. It is argued that the charge has not been handed over in compliance of the mandatory provisions contained under Section 25 of the Act of 1994. The provision contained under Section 25 of the said Act reads as under:

**"Sec. 25.Handing over of charge.-** (1) Whenever the election of a member or Chairperson or Deputy Chairperson of a Panchayati Raj Institution has been declared to be void, whenever such member or Chairperson or Deputy Chairperson -  
(i) is not found qualified or becomes disqualified under Sec. 19 to hold his office, or





- (ii) ceases to be so under the provisions of this Act, or
- (iii) fails to make the prescribed oath or affirmation in accordance with the provisions of this Act, or
- (iv) is removed from office or is suspended under Sec. 38; or
- (v) resigns his office under Sec. 36, or

Whenever a motion of no-confidence is passed against the Chairperson or the Deputy Chairperson of a Panchayati Raj Institution under Sec. 37; or

Whenever the term of office of a Panchayati Raj Institution expires or the election of all the members of Panchayati Raj Institution with or without the Chairperson has been declared void, or such election or the proceedings subsequent thereto have been stayed by an order of a competent Court; or

Whenever a Panchayati Raj Institution is dissolved under this Act, such member or Chairperson or Deputy Chairperson or all any of them shall forthwith handover in the prescribed manner of his or their office including all papers and properties pertaining to such office in his or their actual possession or occupation-

- (a) in the case of a member, to the Chairperson of the Panchayati Raj Institution concerned;
- (b) in the case of Chairperson, to the Deputy Chairperson of such Panchayati Raj Institution or, where there is no Deputy Chairperson, to such member of such Panchayati Raj Institution or other person has the competent authority may direct 1[:]

[Provided that charge of office of any Chairperson who was elected to an office reserved for the persons belonging to Scheduled Castes or the Scheduled Tribes or the Backward Classes or





for Women, shall be handed over as per directions of the Competent Authority, to a member, if any, of the said Castes, Tribes or Classes or a Woman member, as the case may be, in the manner as may be prescribed and where there is no such member belonging to said Castes, Tribes, Classes or a Woman member to whom charge can be given as aforesaid, the charge shall be handed over in the manner as may be prescribed, to any member not belonging to the aforesaid categories.]

(c) In the case of a Deputy Chairperson, to the Chairperson of the Panchayati Raj Institution concerned or, where there is no such Chairperson, to such member of such Panchayati Raj Institution or other person as the competent authority may direct;

(d) in the case of a Panchayati Raj Institution of which the term of office has expired, to such new Panchayati Raj Institution as has been constituted; and

(e) in the case of a Panchayati Raj Institution dissolved under this Act, to the Administration appointed under Sec. 95."

In view of the procedure contained under Section 25(1)(b) of the Act of 1994, the charge, in circumstances mentioned under Section 25, of a Chairperson would be handed over to the Deputy Chairperson and in case there is no Deputy Chairperson the same can be handed over to any member of the Panchayati Raj Institution.

26. In the instant case the charge of the petitioner of the post of *Pradhan* i.e. Chairperson has been handed over to one member namely Rohitash, who is the complainant. The same cannot be



handed over to him in the light of provisions contained under Section 25(1)(b) of the Act of 1994.

Hence, the respondents are directed to take charge from the said member-Rohitash forthwith and hand over the same to the Deputy Chairperson and if there is no Deputy Chairperson, then the same would be handed over to any other member except the complainant who has submitted the complaint against the petitioner. The needful exercise would be done by the respondents within a period of seven days from the date of receipt of certified copy of this order.

27. The respondents are expected to complete the enquiry proceedings against the petitioner expeditiously as early as possible not beyond a period of three months from the date of receipt of certified copy of this order, as the elected public representative is under suspension and she cannot be allowed to remain under suspension for an indefinite period.

28. It is made clear that respondents/authority shall conclude the 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

KuD/2

