



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

S.B. Civil Writ Petition No. 4390/2024

Bheru Singh S/o Sumer Singh, Aged About 41 Years, R/o Village
Baori Kalla, Tehsil Phalodi, District Phalodi.

-----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Rural Development And Panchayati Raj Department, Government Of Rajasthan, Jaipur.
2. Additional Commissioner Cum Deputy Secretary II (Inquiry), Rural Development And Panchayati Raj Department, Government Of Rajasthan, Jaipur.
3. Divisional Commissioner, Jodhpur.
4. District Collector, Phalodi
5. Chief Executive Officer, Zila Parishad, Phalodi.

-----Respondents

For Petitioner(s) : Mr. C. S. Kotwani with
Mr. Yash Rajpurohit
For Respondent(s) : Mr. Manish Patel, AAG

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
Order

Reportable

16/04/2024

1. Heard learned counsel for the parties.
2. The present writ petition has been filed against the order dated 05.03.2024 passed by the respondent No.2, whereby, the petitioner has been suspended.
3. Briefly the facts noted in the present case are that the petitioner was elected as Sarpanch of the Gram Panchayat, Baori Kalla in the year 2020. While, the petitioner was working as



Sarpanch of the Gram Panchayat, Baori Kalla, he was placed under suspension vide order dated 08.06.2022 (Annexure-2), on account of an FIR having been lodged against him on 08.06.2022. The order of suspension dated 08.06.2022 was challenged by the petitioner by way of filing a writ petition being S.B. Civil Writ Petition No.8884/2022 before this Court. A co-ordinate Bench of this court on 03.08.2022, while issuing notices, stayed effect and operation of the suspension order dated 08.06.2022. The petitioner assumed the charge of Sarpanch again after passing of the interim order by this Court.

4. While the petitioner was working as Sarpanch, he was again put under suspension vide order dated 21.10.2022 (Annexure-4). A copy of the charge-sheet was also issued which is placed on record as Annexure-5. The suspension order dated 21.10.2022 was revoked thereafter vide order dated 25.01.2023 (Annexure-12) placing reliance on the enquiry report dated 22.11.2022. After revocation of the suspension order, the petitioner again assumed the charge of Sarpanch, Gram Panchayat, Baori Kalla. Once again, the respondents vide order dated 05.03.2024 (Annexure-13) has placed the petitioner under suspension placing reliance on the inspection held on 10.08.2021. Aggrieved of the order dated 05.03.2024, the present writ petition has been filed.

5. Learned counsel for the petitioner vehemently submitted that although the basis on which the petitioner has been placed under suspension is frivolous and the allegations leveled against the petitioner are unfounded and baseless, the respondents are trying to place the petitioner under suspension on one count or another.



He further submits that even the respondents have got the matter inquired and obtained a report which clearly shows that the petitioner alone cannot be made responsible for the allegations leveled in the charge-sheet. Learned counsel further submits that for one reason or other, the respondents do not want the petitioner to work on the post of Sarpanch of Gram Panchayat Baori Kalla.

6. It is contended by the counsel for the petitioner that the suspension order dated 21.10.2022 was based on the inspection dated 10.08.2021, but later, the matter was enquired and another report dated 22.11.2022 was made which led to the revocation of the suspension. However in issuing subsequent order dated 05.03.2024 once again, reliance was placed on the inspection conducted on 10.08.2021, which clearly indicates that the suspension order was issued without any new material. He, therefore, prays that the order dated 05.03.2024 may be quashed and set-aside and the writ petition may be allowed.

7. Per contra, Mr. Manish Patel, learned Additional Advocate General appearing on behalf of the respondents vehemently opposed the submissions made by the learned counsel for the petitioner. He submits that the petitioner has been placed under suspension on account of the pendency of the enquiry under Section 38 of the Rajasthan Panchayati Raj Act, 1994. He also submits that since the allegations against the petitioner are substantiated by the cogent evidence, therefore, the respondents have rightly placed the petitioner under suspension. Learned counsel submits that on the inspection being conducted by the



respondent authorities on 10.08.2021, certain infirmities were found in the work conducted during the tenure of the petitioner as Sarpanch, thus, he was placed under suspension. He further submits that one more enquiry was conducted against the petitioner and a report to that effect was furnished on 14.02.2023 which also indicates that the work which was got done during the tenure of the petitioner, was not in accordance with the parameters and certain infirmities were pointed out and therefore, the suspension order passed by the respondents on 05.03.2024 is just, proper and correct. He, therefore, prays that the writ petition filed by the petitioner may be dismissed. However, on a pointed query, learned counsel for the respondents is not in a position to refute the factual matrix narrated hereinabove.

8. I have considered the submissions made at the Bar and gone through the relevant record of the case.

9. The factual details mentioned above have not been disputed by learned counsel for the respondents, therefore, it is clear that while the petitioner was working as *Sarpanch* of Baori Kalla, he was placed under suspension on 08.06.2022 which was assailed by him and an interim order was passed by this Court on 03.08.2022. After reinstatement, the petitioner was again suspended on 21.10.2022. However, the respondents, after having got the matter enquired and getting the enquiry report dated 22.11.2022, reinstated the petitioner by passing the order dated 25.01.2023. After a lapse of about one year and two months, once again the petitioner has been placed under suspension vide order dated 05.03.2024 relying upon an inspection conducted by the



respondents on 10.08.2021. On a query being raised by this Court to learned counsel for the respondents about any report made in pursuance of the inspection conducted by the respondents on 10.08.2021, he very fairly submitted that no such report is on record and straight away, the suspension order of the petitioner has been passed on account of the inspection conducted by the respondents. Although, it has been argued by learned counsel for the respondents that there is one more enquiry report placed on record along with the reply dated 14.02.2023, but interestingly that report has not been taken note of while passing the suspension order dated 05.03.2024. The suspension order dated 05.03.2024 has been passed against the petitioner relying upon the inspection conducted by the respondents on 10.08.2021. It is noted that the inspection dated 10.08.2021 was also relied upon by the respondents while passing the order of suspension dated 21.10.2022 and, thereafter, on the strength of the enquiry report dated 22.11.2022, the petitioner was reinstated but once again, the inspection dated 10.08.2021 has been relied upon by the respondents while passing the suspension order dated 05.03.2024. The chronology of the events in the present case clearly demonstrates that for one reason or the other, the respondents are bent upon keeping the petitioner away from working as Sarpanch by passing the suspension order on one count or another. Even, no report has been placed on record by the respondents with regard to the inspection conducted by them on 10.08.2021.

10. This Court takes note of the fact that even the report dated 14.02.2023 placed on record by the respondents along with the reply – Annex.R/1, the same shows that for the works done during the tenure of petitioner as Sarpanch, certain infirmities were found therein but, the petitioner, who was Sarpanch at that relevant time, cannot be made responsible solely for the said infirmities. The enquiry report dated 14.02.2023 (Annex.-R/1) is similar to the enquiry report dated 22.11.2022 on the basis of which the petitioner was reinstated. Therefore, this Court is of the view that the order dated 05.03.2024 has been passed mechanically and without any application of mind.

11. This Court is of the view that democratically elected representatives cannot be prevented from discharging their duties by placing them under suspension on account of flimsy grounds or to settle the political scores. Placing under suspension of democratically elected persons on account of political vendetta weakens the very foundation of the democratic set up and, therefore, the respondents are under an obligation to pass the order of suspension after due application of mind. The passing of the suspension order casually in case of elected representatives adversely affect the public at large.

12. In view of the discussions made above, the writ petition merits acceptance and the same is allowed. The suspension order dated 05.03.2024 is quashed and set aside.

13. However, the respondents will be at liberty to take appropriate measures in accordance with Rule 22 of the Rajasthan



Panchayati Raj Rules, 1996 and take action against the petitioner, if found feasible in accordance with law.

14. The stay application and other pending applications, if any, also stand disposed of.

(VINIT KUMAR MATHUR),J

30-SunilS/Anil Singh/-