



2026:AHC-LKO:1705-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 6 of 2026

Sheela

.....Appellant(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Panchayati
Raj Lko. U.P. And 12 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Ratnesh Chandra, Akshay Bajpai, Vaibhav Tiwari
Counsel for Respondent(s)	:	C.S.C.

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard Shri Ratnesh Chandra, learned counsel for the appellant and learned Standing Counsel for the State respondents.

2. This is an appeal against the judgment and order dated 27.11.2025 passed by learned Single Judge in Writ C No.11448 of 2025; *Smt. Sheela vs. State of U.P. and ors.*

3. The facts of the case in brief are that office of the Pradhan in Gram Panchayat Sultanpur Block Hargaon Tehsil and District Sultanpur fell vacant. Consequently, the appellant herein was given officiating charge under Section 12 J of the Uttar Pradesh Panchayat Raj Act, 1947. A challenge was raised to the said act of the prescribed authority before the writ court by the aggrieved persons by means of Writ C No.7630 of 2025; *Kamlesh Kumar Maurya alias Umendra Kumar Maurya and 5 ors. vs. State of U.P. and 5 ors.* The challenge succeeded as it was found that the decisions of this Court regarding exercise of power under Section 12 J of the U.P. Panchayat Raj Act, 1947 had not been kept in mind. Accordingly, the

appointment of appellant was quashed and a direction was issued to the District Panchayat Raj Officer, Sitapur to take steps for the appointment of the Gram Pradhan afresh in the light of the directions given in the judgments of **Shyamu vs. State of U.P.** reported in **2010 SCC OnLine AHD 1250** and **Shyam Rang vs. State of U.P.** in Writ C No.10901 of 2023 decided on 22.12.2023. Thereafter, the District Panchayat Raj Officer, Sitapur passed an order on 06.10.2025 appointing respondent no.11- Aradhana Maurya as officiating Pradhan. It is this order which was put to challenge by the appellant before the writ court by means of Writ C No. 11448 of 2025. The writ petition of the appellant was dismissed vide impugned order dated 27.11.2025, hence, this appeal has been preferred under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952.

4. Learned Single Judge was persuaded by the observations in the case of **Shyamu (supra)** to the effect that if an overwhelming number of members prefer a candidate, the prescribed authority should ordinarily take the opinion of the majority into consideration while making nomination. The contention of the appellant's counsel is that the District Panchayat Officer, Sitapur has merely relied upon the votes secured by respondent no.11 as the basis for his decision to nominate an officiating Pradhan ignoring the decision of the Division Bench in the case of **Shyamu (supra)** as considered by learned Single Judge Bench in the case of **Jagdish vs. State of U.P. and ors.** reported in **2019 SCC OnLine All 4848**.

5. We have perused both the decisions in the case of **Shyamu**

(supra) and **Jagdish (supra)**. Paragraph no.16 of **Shyamu (supra)**

reads as under :-

" **16.** The question is whether such opinion given by the elected members would be binding on the Prescribed Authority. If such an interpretation is given, then the power exercised by the Prescribed Authority under Section 12-J of the Act will have to be read subject to the opinion of other members. This would not be a correct interpretation of the law. There could be a possibility of violation of reservation policy, and/or a person may pressurise other members to propose his name, and/or the like. Directing the Prescribed Authority to accept the view of the members after the process of consultation, as to who should be the Pradhan of the village, to an extent, will be against the language of the Section. To that extent, in our opinion, the observation in the latter part of the paragraph, which we have reproduced separately, which practically holds that the view given by the elected members would be binding on the District Magistrate, would not be a proper interpretation of Section 12-J of the Act and to that extent may have to be further explained. Considering the Division Bench judgment in Udaivir (supra), the Prescribed Authority, at the highest, should note the opinion of the members and thereafter proceed to nominate the Pradhan. Such a step, to some extent, will help the Prescribed Authority to know who enjoys the confidence of the members, and this will help him to make an informal choice. If an overwhelming number of members prefer a candidate, the Prescribed Authority should ordinarily, in the exercise of his powers to nominate, take that opinion into consideration if otherwise the name proposed would not be against any policy. This, in our opinion, would be a proper interpretation of Section 12-J, which would not denude the power of the Prescribed Authority under the Section. The observation in Smt. Usha Singh (supra) should be read in this context."

6. Paragraph nos. 6 to 9 of **Jagdish (supra)** read as under :-

"**(6)** On a reading of the judgment in Shyamu's case it is evident that while the subsequent Division Bench judgment accepted the ratio of the earlier judgment in Udaivir's case to the extent that ascertainment of wishes of the other members of the Gram Panchayat was in keeping with democratic principles, it went on to elucidate the legal position further by holding that the wishes of the members of the Gram Panchayat

would not be binding upon the Prescribed Authority i.e. the District Magistrate, as, if such an interpretation is given then the power exercised by the Prescribed Authority under Section 12-J of the Act, 1947 will have to be read subject to the opinion of other members which would not be the correct interpretation of law. There could be a possibility of violation of the reservation policy, and/or a person may pressurize the other members to propose his name, and/or the like. The Division Bench observed that directing the Prescribed Authority to accept the view of the members after the process of consultation as to who should be the Pradhan of the village, to an extent, will be against the language of the Section. To that extent the Division Bench in the case of Shyamu opined that the observations made by the Single Judge in Smt. Usha Singh vs. District Magistrate, Gorakhpur & others reported in 1992 RD 337 which practically held that the view given by the elected members would be binding on the District Magistrate would not be a proper interpretation of Section 12-J of the Act. It accordingly further explained the legal position by observing that considering the Division Bench in Udaivir (supra) the Prescribed Authority at the highest should note the opinion of the members and thereafter proceed to nominate the Pradhan. Such a step, to some extent, will help the Prescribed Authority to know who enjoys the confidence of the members and this will help him make an informal choice. It further observed that if an overwhelming number of members prefer a candidate, the Prescribed Authority should ordinarily, in the exercise of its power to nominate take that opinion into consideration, if, otherwise the name proposed would not be against any policy. This would not denude the power of the Prescribed Authority under this Section.

(7) Having considered the facts and circumstances of this case the Court is of the view that this process as enunciated and laid down in Shaymu's case, should have been adopted before nominating the opposite party no.5 as officiating Pradhan, which has not been done. It is, however, made clear that though, the wishes of the remaining members of the Gram Panchayat have to be ascertained and are to be taken into note of by the District Magistrate, they are not binding upon the District Magistrate and the ultimate decision under Section 12-J of the Act, 1947 has to be taken by the District Magistrate which should be in the larger interest of smooth functioning of the Gram Panchayat which is entrusted with important functions relating to the Gaon Sabha.

(8) The Court also takes note that the opposite party no.5 is the most literate person amongst the members of the Gram Panchayat. He could also be nominated by the District Magistrate after ascertaining the wishes of other members of the Gaon Sabha.

(9) In view of the above, District Magistrate Hardoi is directed to undertake a fresh exercise in the light of the aforesaid. The impugned order shall abide by the said decision to be taken as per the aforesaid process but, till then, it shall continue to be in force so that there may not be a vacuum in the interregnum as far as the office of Gram Pradhan is concerned. The aforesaid exercise shall be completed by the District Magistrate within one month from the date a certified copy of this order is produced before the District Magistrate, Hardoi."

7. When we peruse the order which was impugned before the writ court, we find that the District Panchayat Raj Officer, Sitapur has mentioned a table containing the details of members of the Gram Panchayat, which includes the appellant at serial no.3 and respondent no.11 at serial no.11. The educational qualifications of the members are mentioned in column 6. The appellant herein has studied upto the primary level, though the class upto which she has studied is not clear. The respondent no.11 has studied upto Junior High School. Both the candidates belong to the OBC category. While the appellant secured only 3 out of 11 votes, cast by the members of the Gram Panchayat, respondent no.11 secured 7 out of 11 votes. As would be evident from a reading of the relevant extracts of the judgment quoted herein-above, no doubt the majority of votes cast, is not binding upon the prescribed authority, which means that in given facts and circumstances he can take a different opinion from that of the members of the Gram Panchayat, but this has to be for good and valid reasons. In the case at hand we find that respondent no.11 is more educated than the appellant and in view of the fact that she had

obtained 7 out of 11 votes, we find that learned Single Judge was justified in relying upon the observations in **Shyamu (supra)**, as referred therein, purely in the facts of this case, therefore, purely in the facts of the case we do not find it to be a fit case for interference in this intra court appeal.

8. As regards the contention of Shri Ratnesh Chandra, learned counsel for the appellant that votes could be secured by exercising pressure and influence, we have gone through the pleadings in the writ petition and we do not find any such assertion before the writ court, therefore, it appears that this argument has been developed at the spur of the moment. As regards the contention that application of mind should be reflected from the order itself, the table containing the details of the members reflects the educational qualifications. The question is, after all, what for the education qualification is mentioned. Obviously, it is a factor which has been taken into consideration. In any case we have dismissed the appeal purely on the facts of the case.

9. The special appeal is, accordingly, **dismissed**.

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)

January 9, 2026

Arnima