



2026:AHC:53968

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 3619 of 2026

Ram Kishor

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Astitva Srivastava, Pankaj Kumar Srivastava, Sasmita Srivastava
Counsel for Respondent(s)	: C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Astitva Srivastava, learned counsel for the writ petitioner in the leading and connected writ petition and Sri Gaurav Singh, learned Standing Counsel for the State.

2. The case of the writ petitioner in the leading writ petition is that he was appointed as Gram Vikas Adhikari on 26.07.1999 and he is presently posted at Vikas Khand Marauri, District Pilibhit. Show cause notices came to be issued to the writ petitioner on 18.02.2025 show causing the writ petitioner as to why proceedings under Section 256(1), 259(1) and (2) of the U.P. Panchayat Raj Rules, 1947 be not initiated while recovering an amount of Rs. 2,88,50,108.60/- under the signatures of the District Panchayat Raj Officer, Pilibhit. The writ petitioner claims to have tendered his reply to the show cause notices.

3. Prayer in the leading writ petition is for quashing of the notices dated 05.06.2025 passed by the fifth respondent, the writ petitioner, District Panchayat Raj Officer, Pilibhit seeking proposing recovery.

4. Questioning the said notice, the connected writ petition has been preferred.

5. Learned counsel for the writ petitioner has sought to argue that the fundamental defect which goes to the root of the matter is that first of all, the said notices are stated to be and shown to be notices but in fact they are a pre-determined order determining the quantum of monetary liability to be fixed upon the writ petitioner. Learned counsel for the writ petitioner submits that so far as the recovery is concerned, the same is a minor punishment under the provisions of U.P. Government Servant (Discipline and Appeal) Rules, 1999 and, thus, there cannot be any pre-determination of the quantum as any determination is to be done post submission and consideration of the reply. Further submission is that the said notices are time barred which are beyond four years as per the

provisions contained under Rule 257(2) proviso (3). Reliance has also been placed upon the decision of the Hon'ble Apex Court in **M/s Siemens Ltd. Vs. State of Maharashtra (2006) 13 Scale 297, Civil Misc. Writ Petition No. 40396 of 2011 (K.K. Kanjlia Vs. Union of India)** decided on 31.01.2013, **M/s BCITS Pvt. Ltd., Bangalore Vs. Purvanchal Vidyut Vitran Nigam Ltd., Varanasi (2022) 07 ILR A102.**

6. Sri Gaurav Singh, learned Standing Counsel for the State submits that whatever might be only show cause notices have been issued requiring the writ petitioner to submit its reply to the same and so far as the amount so mentioned in the show cause notices is concerned, the same is only indicative of the fact that the said amount is alleged to be misappropriated and it is for the writ petitioner to tender his reply substantiating his claim while submitting that the said misappropriation has not been done and, thus, according to him, the said amounts can very well be treated to be provisional in nature subject to the reply so made by the writ petitioner. Additionally, it has been argued that so far as the issue relatable to limitation aspect is concerned, the same can always be raised in reply to the show cause notice and the same will be adequately dealt with.

7. I have heard the submissions so made across the bar and perused the record.

8. Apparently, the challenge in the present proceedings to the show cause notices issued to the writ petitioner in the leading and the connected writ petition whereby the writ petitioners were show caused to tender their reply as to why recovery be not done in the light of the provisions contained under Rule 256, 257(2), 259(1) and 259(2) of the Panchayat Raj Rules, 1947. For the ready reference, one of the show cause notices dated 05.06.2025 subject matter of challenge in the present petition is being quoted hereinunder.-

"कार्यालय जिला पंचायत राज अधिकारी, पीलीभीत।

पत्रांक 1401/7-पंचायत / ऑडिट लि०/2025-26

(नियम-256 (1) के अन्तर्गत अधिभार नोटिस / स्पष्टीकरण जारी

करने हेतु)

दिनांक-5.6.25

अधिभार नोटिस / स्पष्टीकरण

श्री राम किशोर,

तत्कालीन ग्राम विकास अधिकारी,

द्वारा खण्ड विकास अधिकारी, विकास खण्ड-पूरनपुर।

उ०प्र० पंचायत राज नियमावली-1947 के नियम-256 (1) के अन्तर्गत मुख्य लेखा परीक्षा अधिकारी

सहकारी समितियां एवं पंचायतें उ०प्र० द्वारा ग्राम पंचायत के वर्ष 2018-19 की लेखा परीक्षा में पाये गये दुरुपयोग, अपव्यय अथवा क्षति के सम्बन्ध में अधिभार प्रतिवेदन (वार्षिक प्रतिवेदन वर्ष 2018-19) प्रेषित किया गया है (प्रति संलग्न)।

क्र० सं०	वार्षिक लेखा प्रतिवेदन संख्या	ग्राम पंचायत का नाम	विकास खण्ड का नाम	सन्नहित धनराशि
1	72	भैरो कला	पूरनपुर	28,85,018.60

1- नियम 256 (1) के तहत उक्त अधिभार प्रतिवेदन पर अपना स्पष्टीकरण इस अध्याचन के संसूचित होने के दो माह के अन्तर्गत जिला लेखा परीक्षा अधिकारी के समक्ष प्रस्तुत करे, अथवा

2-नियम 257 (2) के अन्तर्गत आपसे उक्त धनराशि के भुगतान की अपेक्षा की जायेगी। नियम 259 (1) के अन्तर्गत निर्धारित अवधि में अधिभारित धनराशि का भुगतान न करने की दशा में नियम-259 (2) के अन्तर्गत अधिभारित धनराशि को मालगुजारी के बकाये के रूप में वसूल किया जायेगा।

उक्त के क्रम में आपको कारण बताओं नोटिस के माध्यम से निर्देशित किया जाता है कि आप उपरोक्तवत् परिपालन आख्या अधोहस्ताक्षरी के समक्ष एक पक्ष के अन्दर प्रस्तुत कराना सुनिश्चित करें, ताकि उक्त परिपालन आख्या को जिला लेखा परीक्षा अधिकारी, सहकारी समितियों एवं पंचायतें लेखा, पीलीभीत को प्रेषित की जा सके। यदि आपके द्वारा एक पक्ष के अन्दर उक्त परिपालन आख्या अथवा साक्ष्य उपलब्ध नहीं कराये जाते है। तदनुसार ब्याज सहित वसूली की कार्यवाही करते हुए विभागीय / विधिक कार्यवाही अमल में लायी जायेगी। जिसकी सम्पूर्ण जिम्मेदारी आपकी होगी।

ह०अ०/-
(रोहित भारती)
जिला पंचायत राज अधिकारी, पीलीभीत।"

9. A bare look of the show cause notice would reveal that though an amount has been mentioned seeking for which alleging misappropriation and for making recovery but the writ petitioner in fact has been show caused to submit his reply. The language employed in the show cause notice cannot be said to be an act of pre-determination as the writ petitioner is to tender his reply to the show cause notice.

10. At this stage, Sri Gaurav Singh, learned Standing Counsel as per instructions submits that so far as the amount mentioned in the show cause notice is concerned, which have been misappropriated, the same be treated to be provisional in any case and subject to the reply so submitted by the writ petitioner and after consideration of the same, the amount which would be recovered if any would be determined. There is no quarrel to the proposition of law laid down in **M/s Siemens (supra)**, **K.K. Kanjlia (supra)** and **M/s BCITS Pvt. Ltd. (supra)** that the show cause

notice should not be issued with pre-meditation, however, the said decisions would not apply once there is no pre-determination in that regard. As regards the submission so made by the writ petitioner that the notices are time barred as they are beyond four years is concerned since the writ petitioner as per the own saying has tendered his reply to the show cause notice, thus, this Court disposes of the writ petition requiring the adjudicating authority to finalize the proceedings while considering the legal and the factual submissions so made in the reply to the show cause notice within a period of two months if already not decided. All the questions are left open to be adjudicated.

11. With respect to the argument so raised that recovery is a minor punishment and the provisions contained under the U.P. Government Servant (Discipline and Appeal) Rules, 1999 would come into play is concerned, this Court may not venture into the said aspect particularly when the show cause notice have been issued under the provisions contained under the Panchayat Raj Act read with the Rules in that regard.

12. With the aforesaid observations, the writ petition stands **disposed of**.

(Vikas Budhwar,J.)

March 17, 2026

Rajesh