

A.F.R.



2026:AHC-LKO:9248

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 107 of 2026

Anil Kumar

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Panchayatraj Deptt. Lko. and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Prabhat Kumar, Lalla Ji Maurya
Counsel for Respondent(s)	: C.S.C., Narsingh, Satish Kumar Sharma

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Prabhat Kumar Advocate, the learned counsel for the petitioner, and Shri Rahul Shukla, the learned Additional Chief Standing Counsel for the State of U.P. and Sri. Anurag Shukla Senior Advocate assisted by Sri. Aman Dwivedi Advocate, the learned Counsel for the opposite party no. 4.

2. By means of the instant petition filed under Article 226 of the Constitution of India, the petitioner has challenged the validity of an order dated 26.06.2025, passed by the District Panchayat Raj Officer, Sitapur, whereby the District Panchayat Raj Officer has nominated the opposite party No. 4 to perform the duties of Gram Pradhan of Gram Panchayat, Sikauha, Development Block Reusa, District Sitapur until further orders, or until a Pradhan is appointed, as the post had fallen

vacant consequent to the death of the Village Pradhan Ori Lal on 06.06.2025.

3. The learned counsel for the petitioner has submitted that the post of Gram Pradhan in question is reserved for persons belonging to the Other Backward Class Category whereas the opposite party No. 4 is not a person belonging to that category. The petitioner is a member of the Gram Panchayat and he belongs to the Other Backward Class Category, and he ought to have been nominated as the officiating Gram Pradhan.

4. The learned counsel for the petitioner has next submitted that the appointment has been made without obtaining the consent of members of the Panchayat. In this regard, he has relied on a judgment dated 19.05.2017 passed by a Coordinate Bench of this court in the case of ***Savitri Devi v. State of U.P. and 4 others***: 2017:AHC:70818, wherein this court has held that it is imperative for the District Magistrate to seek opinion of the members of the Gram Panchayat before taking a final decision for nomination of a suitable member to officiate as Gram Pradhan until the vacancy is filled up by a regular election.

5. Shri S.K. Khare, the learned Additional Chief Standing Counsel has opposed the writ petition on the basis of written instructions dated 24.09.2025 and he has submitted that Section 12-J of the U.P. Panchayat Raj Act, 1947, does not provide that the provision for reservation will be observed even while appointing an officiating Pradhan. Shri Khare has also received supplementary instructions dated 06.10.2025, informing that prior to making the appointment of opposite party No. 4 as officiating Pradhan, the consent of the Village Panchayat Members had not been obtained.

6. Sri. Anurag Shukla, Senior Advocate appearing for the opposite party no. 4 has vehemently opposed the Writ Petition and he too has submitted that Section 12-J of the U.P. Panchayat Raj Act, 1947, does not provide that the provision for reservation will be observed even

while appointing an officiating Pradhan and that there is no statutory requirement for obtaining consent of the members of gram panchayat before nominating any person to perform the duties of village pradhan in case of any casual vacancy. IN support of his contentions, the learned Counsel for the opposite party no. 4 has placed reliance upon the judgments in the cases of ***Udaivir v. State Election Commission of U.P.***: 2008 SCC OnLine All 2132, ***Pushpendra Kumar v. State of U.P.***, 2010 SCC OnLine All 3140, ***Shyamu v. State of U.P. & Ors.***, 2010 SCC OnLine All 1250, ***Smt. Usha Singh v. District Magistrate, Gorakhpur & Ors.***, 1992 RD 337 = 1992 SCC OnLine All 184.

7. In ***Smt. Usha Singh v. District Magistrate, Gorakhpur & Ors.*** (Supra), a Single Judge Bench of this Court held that: -

"7. ... Literally construed the said provisions gives absolute discretion to the Prescribed Authority to nominate any member of the Gaon Panchayat for this purpose. Such an interpretation, however, would make the provision arbitrary and also unconstitutional since no guiding principle has been laid down as to how the discretion of the prescribed authority is to be exercised and in favour of which member of the Gaon Panchayat...."

After so observing, the learned Single Judge, then, proceeded to hold as under: -

"... In my opinion, since the Gaon Sabha and Gaon Panchayat are democratic bodies elected by the people, the proper interpretation of sub-section (2) of Section 12-J would be that in case where the offices of both Pradhan and Up Pradhan are vacant, or when both Pradhan and Up Pradhan are incapable to act, the Prescribed Authority should ask the members of the Gaon Panchayat to hold a meeting, and such members should decide among themselves which member should be nominated as Pradhan for the interim period until regular election, and such member should be nominated as officiating Pradhan under Section 12-J (2). Such an interpretation would be in consonance with the democratic principle underlying the U.P. Panchayat Raj Act, and would also make the statute constitutional."

8. In ***Kusma Devi v. State of U.P.***: (Supra), another Single Judge Bench considered the judgment in Smt. Usha Singh, but did not follow the same in view of the following discussion: -

"6. In the aforesaid backdrop, the Court in the case of Smt. Usha Singh (supra) also observed that "Literally construed the said provisions gives absolute discretion to the Prescribed Authority to nominate any member of the Gaon Panchayat for this purpose". However, after opining that the aforesaid Gaon Sabha and Gram Panchayat may be taken into evidence, the Court in para 7 has held that no doubt such an interpretation is to some extent exercise of legislative functions by the Court, and has relied upon the observations made by the Apex Court in Ratan Chand Hira Chand v. Askar Nawasjung which is as under:

"The legislature often fails to keep pace with the changing needs and values nor is it realistic to expect that it will have provided for all contingencies and eventualities. It is, therefore not only necessary but obligatory on the courts to step in to fill the lacuna.

7. When courts performs this function undoubtedly they legislate judicially. But that is a kind of legislation which stands implicitly delegated to them to further the object of the legislation and to promote the goals of the society, or to put it negatively, to prevent the frustration of the legislation or perversion of the goals and values of the society"

8. In my opinion, there is no lacuna in Section 12-J which is required to be filled up by this Court. The provision of Section 12-J sub clause (2) is clear that temporary Gram Pradhan is to be nominated by the Prescribed Authority. Nothing can be added by reading in between the lines or to give strength one's own opinion. The Prescribed Authority has power to nominate any person under the Act which cannot be said to be arbitrary and the Registrar has acted in its wisdom as conferred under the Act."

9. In ***Udaivir v. State Election Commission of U.P.***, 2008 SCC OnLine All 2132, a Division Bench of this Court held that: -

"4. Considering the basic concept of the democracy set up for the Panchayat Raj under the provisions of Article 243 of the

Constitution, we are of the opinion that respondent No. 3, i.e. District Magistrate, Aligarh ought to have ascertained the wishes of the elected members of the Gram Panchayat, as to who should be the officiating Pradhan for the period till the regular election of the Gram Pradhan is held. Further every attempt should be made to elect the new Pradhan at the earliest possible."

10. The aforesaid judgment was followed by another Division Bench of this Court in the case of ***Pushpendra Kumar v. State of U.P.***, 2010 SCC OnLine All 3140, wherein it was held that: -

"9.The provisions of section 12-J came up for consideration before a Division Bench in the case of Udaivir (supra) and this Court has held that the Prescribed Authority has to act in accordance with the majority opinion of the Members of the concerned Gram Panchayat while nominating the officiating Pradhan. The law laid down in the aforesaid case is in consonance with the spirit of the provisions of Chapter IX inserted in our Constitution by the Constitution (Seventy third) Amendment Act 1992 which provides for constitution of Panchayats at the village, empowering the villagers to manage their affairs at the local level themselves."

11. In ***Shyamu v. State of U.P. & Ors.***: 2010 SCC OnLine All 1250 yet another Division Bench of this Court noted the contradictory judgments given by coordinate Benches in ***Smt. Usha Singh v. District Magistrate, Gorakhpur & Ors.***, (Supra) and ***Kusma Devi v. State of U.P.*** 1992 RD 337 (Supra) and the Division Bench held that: -

"8. It is a cardinal principle of our jurisprudence, that if a learned Single Judge disagrees with the view taken by another learned Judge on the interpretation of a provision, in the normal course, the learned Judge should refer the matter to a larger Bench unless the ratio of the judgment is clearly distinguishable. Judicial discipline requires such an approach to avoid inconsistency in judicial pronouncements and further to enable the authorities to exercise their powers in terms of the interpretation given by the Court to the provisions. We may gainfully refer to the judgment of the Supreme Court in the case of Tribhuvandas Purshottamdas Thakur v. Ratilal Motilal Patel, AIR 1968 SC 372, wherein the Supreme Court

has observed that where a learned Single Judge chooses to take a view different from the view taken by another learned Single Judge, he is ordinarily bound to refer the matter to a Division Bench. We may only quote the following observations:-

"... It has been held time and again that a Single Judge of a High Court is ordinarily bound to accept as correct judgments of courts of coordinate jurisdiction and of Division Benches and of the Full Benches of his Court and of this Court. The reason of the rule which makes a precedent binding lies in the desire to secure uniformity and certainty in the law."

9. This principle flows on the proposition that if decisions of the same or a superior Court are ignored, even though directly applicable, by a Judge in deciding a case arising before him, on the view that every Judge is entitled to take such view as he chooses on the question of law arising before him, the law will be bereft of all its utility if it should be thrown into a state of uncertainty by reasons of conflicting decisions. In this regard, the observation of Gajendragadkar, C.J., in Lala Shri Bhagwan v. Shri Ram Chand, (1965) 3 SCR 218, is quoted below:-

"It is hardly necessary to emphasise that considerations of judicial propriety and decorum require that if a learned Single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a Single Judge, need to be reconsidered, he should not embark upon that enquiry sitting as a Single Judge, but should refer the matter to a Division Bench or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety."

The Division Bench concluded that: -

"14. We have earlier quoted Section 12-J of the Act. The Section, literally read, confers power on the Prescribed Authority alone to nominate a member of the Gram Panchayat. There is no provision for the Prescribed Authority to mandatorily consult the members of the Gram Panchayat. The settled legal principle of the interpretation is, in the first

instance, to read the language of the Section in its literal sense. It is only in the event, when the reading of the literal language would result into the absurdity or detract from the intent of the legislature, the Court steps into read the provision in consonance of the intent of the legislature. The intention of the legislation is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also what has not been said. As a consequence, a construction, which requires for its support addition or substitution of words or which results in rejection of words as meaningless has to be avoided. [(See Shyam Kishori Devi v. The Patna Municipal Corporation & Anr., AIR 1966 SC 1678, and A.R. Antulay v. Ramdas Srinivas Nayak & Anr., (1984) 2 SCC 500].

*The learned Single Judge, who decided Smt. Usha Singh (supra), was of the opinion that the provision gives absolute discretion to the Prescribed Authority and such an interpretation would make the provision arbitrary and also unconstitutional since no guiding principle has been laid down as to how the discretion of the Prescribed Authority is to be exercised and in favour of which member of the Gram Panchayat. It cannot be said that this was not a possible interpretation considering that the object of the Section is to nominate a member to act as a Pradhan. The member nominated should normally enjoy the confidence of other members and/or atleast the majority of the members so that the functions of the Gram Panchayat can proceed smoothly. Secondly, this view has been holding the field atleast since the year 1992. In these circumstances, **in our opinion, the requirement of consultation with the members cannot be said to be contrary to the intent of the legislature or adding words which have not been provided by the Statute. We, therefore, overrule the view taken in Smt. Kusma Devi.***

15. The office of Pradhan of a village is filled in by elections. The legislature, aware of this position, has made a specific provision under the Act, conferring powers on the Prescribed Authority to nominate a member to discharge the duties and exercise the powers of Pradhan until the vacancy of the office of Pradhan is filled in. This exercise is for the purpose of seeing that the functions of the Panchayat proceed smoothly and that there is no vacancy in the post till the vacancy is filled, as the Panchayat constitutes the basic unit of our democratic structure.

To that extent, the observations made by the learned Division Bench in Udaivir (supra), in our opinion, can be said to reflect this basic concept of our democratic body that those in majority, shall have their nominee elected as an elected Pradhan should have the confidence of the members."

(Emphasis added)

12. The learned counsel for the opposite party no. 4 has submitted that as Section 12-J of the U.P. Panchayat Raj Act does not contain any provision mandating the prescribed authority to take into consideration the views of majority of members as expressed in a meeting held for this purpose, for nominating a person to discharge the duties of pradhan in a case of a casual vacancy, the *casus omissus* cannot be supplied by the courts except in the case of clear necessity and except where reason for the same is found in the corners of the statute itself but at the same time a *casus omissus* should not be readily inferred and for this purpose all the parts of statute or sections must be construed together and every clause of a section should be construed with reference to the context with other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. He has submitted that for the aforesaid reasons, this Court should refer the point decided in the aforesaid cases for reconsideration by a larger Bench.

13. The learned Counsel for the opposite party no. 4 has placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Union of India versus Dharmendra Textile Processors***: (2008) 13 SCC 369, wherein the Hon'ble Supreme Court held that: -

"18. Two principles of construction - one relating to casus omissus and the other in regard to reading the statute as a whole, appear to be well settled. Under the first principle a casus omissus cannot be supplied by the court except in the case of clear necessity and when reason for it is found in the four corners of the statute itself but at the same time a casus omissus should not be readily inferred and for that purpose all the parts of a statute or section must be construed together

and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. This would be more 45 so if literal construction of a particular clause leads to manifestly absurd or anomalous results which could not have been intended by the legislature. "An intention to produce an unreasonable result", said Danckwerts, L.J. in Artemiou v. Procopiou (1965) 3 ALL ER 539 (All ER p. 544 I) "is not to be imputed to a statute if there is some other construction available". Where to apply words literally would "defeat the obvious intention of the legislation and produce a wholly unreasonable result", we must "do some violence to the words" and so achieve that obvious intention and produce a rational construction. [Per Lord Reid in Luke v. IRC (1963) AC 557 where at AC p. 577 he also observed: (All ER p.664 I) "This is not a new problem, though our standard of drafting is such."

(The above paragraph has been quoted from the text of the judgment available on the web portal of the Hon'ble Supreme Court because there is an error in paragraph numbering in SCC)

14. Having gone through the law laid down in ***Udaivir*** (supra) and affirmed by two different division benches in ***Pushpendra Kumar*** (supra) and ***Shyamu*** (supra), I find myself bound by the proposition of law laid down by the Division Benches in the aforesaid cases.

15. I agree with the submission made by Sri. Anurag Shukla, the learned Senior Counsel for the opposite party no. 4 that a Single Judge Bench can refer the decision rendered by a Division Bench for reconsideration to a larger Bench, but this can only be done when the Single Bench doubts correctness of the view taken by the Division Bench. However, I am in respectful agreement of the view taken by the Single Judge Bench in the case of ***Smt. Usha Singh v. District Magistrate, Gorakhpur & Ors.***, (Supra) decided way back in the year 1992, which view was also taken by the Division Benches in the cases of ***Udaivir*** (supra) and affirmed in ***Pushpendra Kumar*** (supra) and finally explained and settled in ***Shyamu*** (Supra) and I find no ground for making a reference for reconsideration of the issue by a larger Bench.

16. It is also a settled principle of law that longstanding precedents should not ordinarily be interfered with. Even the Hon'ble Supreme Court does not ordinarily interfere with the long standing precedents of High Courts regarding State legislations.

17. In ***Dattatraya Ganesh Kulkarni v. Appa Tukaram Mude***: (1998) 8 SCC 717, the Hon'ble Supreme Court held that: -

"Those judgments are in the nature of stare decisis insofar as the interpretation of the local legislation on the subject is concerned. These having remained in the field for decades would not warrant us now to be giving a different interpretation as sought by the learned counsel for the appellant."

18. In ***Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha v. State of Maharashtra***: (2001) 8 SCC 509, the Hon'ble Supreme Court again held that:

"7. ...This being the consistent view of the High Court on the interpretation of provisions of a State Act, the same is not required to be disturbed unless it is shown that such a view of the High Court is palpably wrong or ceased to be good law in view of amendment in the Act or any subsequent declaration of law."

19. In view of the foregoing discussion, I am unable to accept the request of the learned Senior Counsel for the opposite party no. 4 for referring the aforesaid well settled issue for reconsideration by a larger Bench and this request of the learned Counsel for the opposite party no. 4 is turned down.

20. Regarding the other submission of the learned Counsel for the petitioner that even while filling up a casual vacancy of Pradhan under Section 12-J of the Panchayat Raj Act, the principle of reservation has to be followed, the judgment of a coordinate Bench of this Court in ***Brij Rani Singh v. State of U.P.***: 2000 SCC OnLine All 1249 : 2000 All LJ 1854 had as follows: -

"25. ...it is apparent that the arrangement made for filling up temporary vacancy in the office of Pradhan which may cause, because of certain factors including removal of Pradhan would not mean that the office of Pradhan is filled up by a person or member or Up-Pradhan who is otherwise not eligible or was not eligible to contest for the seat of Pradhan in a particular reserved constituency. This being only a simple arrangement during a temporary vacancy, no exception of the same can be taken and It can not be read in derogation with the provisions regarding reservation made under the Act and prescribed under the Rules...."

21. Therefore, the rule of reservation has to be applied even while making nomination of a member of a village Panchayat under Section 12-J of the U. P. Panchayat Raj Act to perform the duties of a Pradhan against a casual vacancy of Pradhan.

22. In view of the foregoing discussion, I am of the considered view that the impugned order dated 26.06.2025, passed by the District Panchayat Raj Officer, Sitapur, whereby the District Panchayat Raj Officer has nominated the opposite party No. 4 to perform the duties of Gram Pradhan of Gram Panchayat, Sikauha, Development Block Reusa, District Sitapur until further orders, or until a Pradhan is appointed, is unsustainable in law and the same is quashed. The District Magistrate/District Panchayat Raj Officer, Sitapur is directed to make a fresh appointment of officiating Pradhan, keeping in view the observations made in this judgment.

23. With the aforesaid observations/directions the petition stands **allowed.**

(Subhash Vidyarthi,J.)

February 05, 2026
Pradeep/-