

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1113 of 2026

Neutral Citation:-2026:AHC-LKO:9429

[A.F.R.]

Rajesh Kumar And Another

.....Petitioner(s)

Versus

State Election Commissioner U.P. Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Anshuman Singh, Vipul Singh
Counsel for Respondent(s) : Anurag Kumar Singh

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Shri Anshuman Singh, the learned counsel for the petitioner and Shri Anurag Kumar Singh, the learned counsel for the State Election Commission representing the opposite party Nos.1, 2 and 3.
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 24.12.2025 passed by the S.D.M., Mahmoodabad, District-Sitapur whereby the petitioner's representation dated 08.12.2025 for treating him as a resident of Village Panchayat - Kandaari, has been rejected. The ground of rejection is that earlier the petitioner was a resident of Village Panchayat- Bambhauri and the petitioner's father, wife and children are still continuing as residents of Village Panchayat-Bambhauri. Therefore, the petitioner shall also be treated as a resident of Village Panchayat- Bambhauri.
3. It has been pleaded in the petition that earlier the petitioner was elected as Pradhan of the Village Panchayat- Bambhauri in the elections held in the year 2005. At that time, the said Village Panchayat comprised of eight villages. Subsequently in the year 2015, a new Village Panchayat- Kandaari comprising of 3 villages was carved out from Village Panchayat- Bambhauri. The petitioner was elected as Pradhan

of Village Panchayat- Bambhauri in the year 2015 and he held that Office till the year 2021. In the year 2021, the petitioner lost election for Pradhan of Village Panchayat- Bambhauri and the opposite party No.4 was elected as Pradhan. The petitioner claims to have shifted his residence from Village Panchayat- Bambhauri to Shahzadpur, which is a hamlet of Village Panchayat- Kandaari. The petitioner has been issued a domicile certificate by the Competent Authority.

4. On 26.09.2025, the father of the petitioner No.1 had moved an application for striking out the petitioners' names from the voters' list of the Village Panchayat- Bambhauri and, accordingly, their names have been struck out from the voters' list of Village Panchayat- Bambhauri. Thereafter the petitioners sought inclusion of their names in the electoral roll of Village Panchayat- Kandaari. This claim has been rejected by the impugned order 24.12.2025.
5. It is recorded in the order dated 24.12.2025 that the names of other family members of the petitioners, namely, Jwala Prasad- father of the petitioner No.-1, Usha Devi wife of the petitioner No.1, Jyoti Yadav and Manjari Yadav - daughters of the petitioner No.1 and Devendra Singh and Gyanendra Singh - sons of the petitioner No.1, are recorded in the electoral roll of Village Panchayat- Bambhauri. During inquiry, it came to light that Rakesh Kumar, son of Banwari Lal has provided a room in the *Sehen* of his house to the petitioner No.1 and the petitioner No.1 has put up his name plate on it portraying it to be his residence, but there was no evidence of the residence of the petitioner No.1 in the said room. Although the petitioner has submitted affidavits of some persons, the affidavits were pre-prepared affidavits. Several villagers have objected stating that the petitioners are not residents of Village Panchayat- Kandaari and some of them have given affidavits stating that the petitioner and his family members are residents of Village Panchayat- Bambhauri and their names are recorded in the electoral roll of that Village.
6. Challenging the validity of the aforesaid order dated 24.12.2025, the learned counsel for the petitioners has submitted that Section 9 (3) of U.P. Panchayat Raj Act, 1947 provides that "*Subject to the provisions*

*of sub-section (4), (5) and (7) every person who has attained the age of 18 years of the first day of January of the year in which the electoral roll is prepared or revised and who is **ordinary resident in the territorial constituency of a Gram Panchayat** shall be entitled to be registered in the electoral roll for that territorial constituency.”*

However, the learned Counsel for the petitioners has not placed the explanation appended to Section 9(3) of the Act whereas whenever any provision of law is placed before a Court, it should be placed in its entirety. Therefore, Section 9 (3) of U.P. Panchayat Raj Act, 1947 is being quoted below: -

“(3) Subject to the provisions of sub-sections (4), (5), (6) and (7) every person who has attained the age of 18 years on the first day of January of the year in which the electoral roll is prepared or revised and who is ordinarily resident in the territorial constituency of a Gram Panchayat shall be entitled to be registered in the electoral roll for that territorial constituency.

Explanation (i) A person shall not be deemed to be ordinarily resident in the territorial constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

(ii) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(iii) A member of Parliament or of the Legislature of the State shall not, during the term of his office, cease to be ordinarily resident in the territorial constituency merely by reason of his absence from that area in connection with his duties as such member.

(iv) Any other factor that may be prescribed shall be taken into consideration for deciding as to what persons may or may not be deemed to be ordinarily residents of a particular area at any relevant time.

(v) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case.”

(Emphasis added)

7. The Explanation appended to Section 9(3) of the U. P. Panchayat Raj Act clarifies that a person shall not be treated to be an ordinary resident in the territorial constituency merely on the ground that is in possession of a dwelling house therein, whereas the petitioners are claiming themselves to be residents of Village Panchayat- Kandaari only on the ground that the petitioner no. 1 is in possession of a room in the sahan of Rakesh Kumar, son of Banwari Lal in village Shahzadpur in village Panchayat Kandaari and he has put up his name plate on it portraying it to be his residence, whereas it has come to light in inquiry that that there was no evidence of their actual residence in that room and they are ordinarily residing in village Shahzadpur in village panchayat Bambhauri.
8. The petitioners have themselves pleaded that earlier the petitioner no. 1 has been elected as Pradhan of Village Panchayat- Bambhauri in the elections held in the year 2005. At that time, the said Village Panchayat comprised of eight villages. Subsequently in the year 2015, a new Village Panchayat - Kandaari comprising of 3 villages was carved out from Village Panchayat- Bambhauri. The petitioner was elected as Pradhan of Village Panchayat- Bambhauri in the year 2015 and he held that Office till the year 2021. In the year 2021, the petitioner lost election for Pradhan of Village Panchayat- Bambhauri and the opposite party No.4 was elected as Pradhan. The petitioner claims to have shifted his residence from Village Panchayat- Bambhauri to Shahzadpur, which is a hamlet of Village Panchayat- Kandaari.
9. The names of the other family members of the petitioners, namely, Jwala Prasad- father of the petitioner No.-1 and husband of the petitioner no. 2, Usha Devi wife of the petitioner No.1 and daughter-in-law of the petitioner no. 2, Jyoti Yadav and Manjari Yadav - daughters of the petitioner No.1 and grand-daughters of the petitioner no. 2 and Devendra Singh and Gyanendra Singh - sons of the petitioner No.1 and grand-sons of the petitioner no. 2, are recorded in the electoral roll of Village Panchayat- Bambhauri. Several villagers have stated that the petitioners are not residents of Village Panchayat- Kandaari and some of them have given affidavits stating that the petitioners are residents

of Village Panchayat- Bambhauri and their names are recorded in the electoral roll of that Village. Even if the petitioners are absenting themselves temporarily from their place of ordinary residence in Village Panchayat- Bambhauri, they shall not by reason thereof cease to be ordinarily residents of Village Panchayat- Bambhauri.

10. The S.D.M. has passed the impugned order holding the petitioners to be ordinary residents of Village Panchayat- Bambhauri after proper consideration of all the facts of the case, as required by Explanation (v) appended to Section 9(3) of the Act. The impugned order does not suffer from any error or illegality warranting interference by this Court.
11. The Writ Petition lacks merit and the same is **dismissed**.

February 6, 2026
-Amit K-

(Subhash Vidyarthi,J.)