



2026:AHC:126870

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 23131 of 2026

Jane Alam

.....Petitioner(s)

Versus

State Of U.P And 3 Others

.....Respondent(s)

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

Court No. - 38

HON'BLE PRAKASH PADIA, J.

1. Order impugned dated 19.05.2026 passed by the Respondent No.2 by which the financial and administrative power of the petitioner who is Gram Pradhan has been seized is under challenged in the present writ petition.
2. It is argued that before passing the aforesaid order, a show cause notice was issued on 21.01.2026. A detailed reply of which has been submitted by the petitioner on 24.02.2026 but the same has not at all been taken into consideration by the District Magistrate, Pilibhit/ Respondent No.3 while rejecting the same.
3. Heard counsel for the parties and perused the record.
4. From perusal of the record, it is clear that the reply submitted by the petitioner was not at all been taken into consideration.
5. Counsel for the petitioner placed reliance upon an order dated 12.06.2020 passed in **Writ C No.9391 of 2020 (Sumitra Devi Vs. State of U.P. and 5 others)**. The order dated 12.06.2020 reads as follows :-

"1. Petitioner is the elected Pradhan of Village Unti, Post Panwari Kalan, Tehsil Lalganj, District Mirzapur, and is aggrieved by an order passed by District Magistrate, Mirzapur, dated 31.3.2020. By this order the administrative and financial powers of petitioner has been seized under Section 95(1)(g) of the U.P. Panchayat Raj Act, 1947, and a regular enquiry under Rule 5 of the U.P. Panchayat Raj (Removal of

Pradhan, Up-Pradhan and Members) Enquiry Rules, 1997 has been initiated while constituting a three members committee to look after the financial affairs. This order is primarily assailed on the ground that District Magistrate has not recorded any satisfaction with regard to existence of materials justifying cessation of administrative and financial powers. Reliance is placed upon a Full Bench judgment of this Court in the case of Shamim Vs. State of U.P. and others, (2018) 4 UPLBEC 2573.

2. Perusal of the records would go to show that respondent complainant had made certain allegations against the elected Pradhan and after no action was taken in the matter a Writ Petition No.2098 of 2019 was filed, which came to be disposed of vide following orders dated 24.1.2019:-

"Heard learned counsel for the petitioner and Sri Alok Sharma, learned Standing Counsel appearing for the State respondents.

Present petition has been filed seeking direction to the respondent authorities to conduct inquiry on the complaint of the petitioner against private respondent no. 5.

Drawing attention to Annexure-1 to the petition submission of learned counsel for the petitioner is that the earlier complaint was disposed of only on the basis of communication from the Gram Pradhan, which cannot be treated as any kind of inquiry in the complaint submitted by the petitioner.

The petitioner is complainant and has filed complaint against elected Gram Pradhan duly supported by his affidavit.

In such view of the matter, present petition stands disposed of with a direction to the respondent no. 2-District Magistrate, Mirzapur to decide the complaint of the petitioner preferably within a period of 30 days from the date of production of a certified copy of this order before him provide the complaint is in accordance with rules."

3. It is stated that an enquiry was got conducted in which all the charges were found incorrect and the proceedings were dropped. It is thereafter that a fresh preliminary enquiry has been got conducted in which the charges have been found proved on various counts. A show cause notice

was issued on 8.1.2020 to which a reply has also been submitted by the petitioner. It is thereafter that the order impugned has been passed which refers to the submission of reply by petitioner on 27.1.2020. The only reason assigned in the order to reject/discard petitioner's reply is that petitioner's defence is without substance and without any evidence. An interference is accordingly drawn that the petitioner has committed financial embezzlement.

4. The question as to what would be the manner of exercising powers by the State Government/District Magistrate for ceasing financial and administrative powers of the Pradhan fell for consideration before a Full Bench of this Court in *Hafiz Ataullah Ansari Vs. State of U.P. and others*, 2011 (2) UPLBEC 889. A subsequent Full Bench in the case of *Shamim (supra)* has examined all previous judgments and the powers of District Magistrate for the purposes of exercise of jurisdiction under Section 95(1)(g) of the Act of 1947. The 73rd and 74th Constitutional Amendments have been noticed by the Full Bench to observe that Panchayats and Municipalities have now been conferred constitutional status. The question for consideration before the Full Bench has been noticed in para 23 of the judgment, which is reproduced hereinafter:-

"23. In the backdrop of the legislative history and the status of an elected Pradhan, after the Constitutional Amendment, the primary issue is whether the power exercised by the State Government/District Magistrate under the proviso to Section 95(1)(g) of Panchayat Raj Act is a purely administrative or a quasi judicial. In other words whether State Government/District Magistrate while exercising power under the proviso to Section 95(1)(g) is a Tribunal."

While answering the reference, the Full Bench observed as under in para 37 of the judgment in *Shamim (supra)*:-

"37. In *Vivekanand*, *Hafiz Ataullah Ansari* and thereafter reiterated in *Paras Jain* that the elected representative would have to be given an opportunity to raise objection to the findings returned in the preliminary enquiry and his/or her objections will have be considered, though *prima facie*, by the State Government/District Magistrate before an order ceasing the financial and administrative power and functions is passed.

The consequence of the order passed in exercise of power under Section 95(1)(g) is serious consequence as it divests the elected representative from exercising power until exonerated in final enquiry and the decision of the State Government is final. The decision taken by the State Government is not based on any expediency or policy of the State, rather, it is a statutory power conferred upon the State Government exercising inherent judicial power after confronting the elected representative, with show cause notice based on the preliminary report, thereafter, taking a decision upon due application of mind on the objections of the elected Pradhan. Once such an order is passed, it is not open for the State Government to either review or modify the order during the course of final enquiry. The order, therefore, finally decides the issue between Pradhan and the Authority (State Government) in so far it relates to exercise of financial and administrative power. The office of the local body is an elected office of the constitutional democratic institution; the elected head is not a government servant and it would be improper to compare these proceeding with departmental proceeding in service jurisprudence. A head of a local body is elected for a limited term. If during the removal proceedings, he is denuded from exercising financial and administrative powers then even if he is exonerated in the enquiry the time spent during enquiry is lost, he does not get his period extended. The consideration about the presence of all or some of the trappings of a court is really not decisive. The main and basic test is whether the adjudicating power which a particular authority is empowered to exercise has been conferred on it by a statute and can be described as part of the State's inherent power exercised in discharging its judicial function. Applying this test there can be no doubt that the power which the State Government/District Magistrate exercises under proviso to Section 95(1)(g) is a quasi-judicial power exercised by a quasi-judicial authority."

5. Since the power to be exercised by the District Magistrate is quasi-judicial in nature and has serious consequences for elected representative, it is expected that the District Magistrate would apply his mind to the nature of charges levelled and would record a prima facie satisfaction with regard to existence of materials collected in the preliminary enquiry, which necessitates holding of regular enquiry and

justify seizure of financial and administrative powers of Pradhan. The District Magistrate, therefore, is expected to look into the nature of charges as also the defence set up by the elected Pradhan or else the very object of issuing show cause notice would be frustrated. Law is otherwise settled that reason is the soul of an order and considerations which have prevailed in passing of the order must be reflected from the order itself. Merely stating that the explanation is not satisfactory would not suffice. In such circumstances this Court finds that the order of District Magistrate is wanting on relevant parameters, notice above, and therefore the order impugned cannot be sustained."

6. Learned Standing Counsel submits that instead of keeping the matter pending it would be appropriate that the authority concerned be permitted to re-visit the issue.

7. In that view of the matter, it would be appropriate to set aside the order of the District Magistrate dated 31.3.2020, and remit the matter to the District Magistrate to objectively consider the reply of the petitioner and to pass a fresh order, depicting application of mind to the materials collected in the preliminary enquiry as also the defence of petitioner in that regard.

8. Writ petition, accordingly, is allowed."

6. In this view of the matter, it would be appropriate to set aside the order dated 19.05.2026 passed by the District Magistrate, Pilibhit/ Respondent No.2, and remit the matter to the District Magistrate to objectively consider the reply of the petitioner and to pass a fresh order, depicting application of mind to the materials collected in the preliminary enquiry as also the defence of petitioner in that regard.

7. Accordingly, the writ petition is **allowed**.

(Prakash Padia,J.)

June 11, 2026
Swati