

Krishna Devi (Smt.) Vs. Government of U.P. and ors.

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Court : Allahabad

Decided On : Sep-29-2003

Reported in : (2003)3UPLBEC2825

Judge : Anjani Kumar, J.

Acts : [Constitution of India](#) - Article 226; Uttar Pradesh Panchayat Raj Act, 1947 - Sections 95(1)

Appeal No. : Civil Misc. Writ Petition No. 32542 of 2003

Appellant : Krishna Devi (Smt.)

Respondent : Government of U.P. and ors.

Advocate for Def. : Vishnu Sahai, Adv. and ;S.C.

Advocate for Pet/Ap. : Ashok Khare, ;Ashok Kumar Pandey and ;Harish Chandra Dwivedi, Advs.

Disposition : Petition dismissed

Judgement :

Anjani Kumar, J.

1. The petitioner, who is Gram Pradhan of concerned Gram Panchayat has challenged the order passed by the District Magistrate, Ghaziabad, dated 3rd July,

2003, Annexure '12' to the writ petition, which was communicated by Chief Development Officer vide its order dated 23rd July, 2003, Annexure-'IO' to the writ petition, whereby the District Magistrate restrained the petitioner from exercising financial and administrative powers.

2. Heard learned Counsel appearing on behalf of the parties.

3. The facts leading to the filing of present writ petition are that the petitioner, who was elected as Pradhan of concerned Gram Panchayat in July, 2000, was issued a show cause notice dated 24th April, 2002 by the District Magistrate, Ghaziabad under Section 95(1)(g) of U.P. Panchayat Raj Act, 1947, as amended in the year 1994, whereby the petitioner was asked to show cause as to why the petitioner be not restrained from exercising financial and administrative power and committee be not appointed as contemplated under the aforesaid provision, The petitioner submitted reply to the aforesaid show cause notice, as alleged by the petitioner. Thereupon, the District Magistrate has passed an order dated 19th June, 2003, Annexure '6' to the writ petition, restraining the petitioner from exercising financial and administrative power as Pradhan of Gram Panchayat concerned. The petitioner has challenged the order dated 19th June, 2003 passed by the District Magistrate, Ghaziabad before this Court by means of Writ Petition No. 27788 of 2003. This Court vide its order dated 4th July, 2003 passed the following interim order, which reads thus :

'Learned Standing Counsel may file a counter affidavit within one month. Learned Counsel for the caveator may also file counter affidavit in the same period. Rejoinder affidavit may be filed within two weeks thereafter. List thereafter. In the meantime, operation of the impugned order dated 19.6.2003 will remain stayed till further orders.

Sd/-

S. Harkauli,

4.7.2003.'

4. Learned Counsel appearing on behalf of the petitioner stated that inspite of the order being served on the Respondent, the Block Development Officer issued a direction directing the petitioner that she will not make any payment and she will make payment only after the work is verified through the Executive Engineer, Rural Engineering Service.

5. Against the interim order dated 4th July, 2003, passed by this Court, the caveator who is Up-Pradhan of concerned Gram Panchayat, filed a special appeal being Special Appeal No. 549 of 2003 before this Court. This court vide its judgment and order dated 10th July, 2003 directed that 'till the next date fixed, the status-quo as on today in respect of the extent of the financial and administrative powers as envisaged in the first proviso to Section 95(l)(g) of U.P. Panchayat Raj Act, 1947 shall be maintained and further directed the writ petition to be listed for final disposal.' After the Division Bench has passed the aforesaid order in special appeal, as stated above, the Chief Development Officer, Ghaziabad issued an order dated 23rd July, 2003 stating therein that since the Division Bench vide its order dated 10th July, 2003 has stayed the order dated 15th July, 2003 till further orders and has held valid the proceeding of restraining the financial and administrative powers of the petitioners, therefore, in terms of the order dated 3rd July, 2003 passed by the District Magistrate as contained in the dated 19th June, 2003 should be complied with. This order is issued pursuant to the order dated 23rd July, 2003 and shall remain enforce till further orders.

6. Learned Counsel appearing on behalf of the petitioner argued that the order under the proviso to Section 95 (l)(g) dated 19th June, 2003 whereby the financial and administrative powers of the petitioner have been ceased is illegal, unconstitutional and contrary to the provisions of the order passed by learned Single Judge of this Court dated 4th July, 2003. It is not disputed that the writ petition in which the order dated 4th July, 2003 was passed is still pending and has not been finally disposed of. In this view of the matter, the grievance of the petitioner, if any, with regard to the alleged non-compliance of the order passed by learned Single Judge dated 4th July, 2003 and therefore, the restriction of exercising the financial and administrative powers of the petitioner as Pradhan of the Gram Panchayat concerned at the most amount to non-compliance of the

interim order dated 4th July, 2003.

7. Learned Counsel appearing for the other side has contended that the interim order dated 4th July, 2003 has been stayed by the Division Bench of this Court in special appeal, referred to above. In this view of the matter, this writ petition amounts to second writ petition for the same cause of action, as the earlier writ petition, namely Writ Petition No. 27788 of 2003 is still pending, therefore, the present writ petition deserves to be dismissed in accordance with the Rules of the Court.

8. In the result, this writ petition is dismissed.

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