
(2025) 10 RH CK 0063

Rajasthan HC

Case No: Civil Writ Petition No. 13716 Of 2025

Vinod Kumari Sangwan

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision: Oct. 16, 2025

Acts Referred:

- Bhartiya Nyaya Sanhita, 2023 — Section 121, 132, 308, 351
- Rajasthan Panchayati Raj Rules, 1996 — Rule 22(2), 22

Hon'ble Judges: Sanjeet Purohit, J

Bench: Single Bench

Advocate: Pradeep Kalwania, Kapil Prakash Mathur, Prateek Saxena, Sumit Purohit, Pranay Sharma

Final Decision: Disposed Of

Judgement

Sanjeet Purohit, J

1. With the consent of the counsel for the parties, this matter was heard for final disposal.

2. Instant writ petition has been filed inter alia assailing validity and propriety of the Suspension Order dated 06.08.2025 (Annx.1), Charge-sheet/Notice dated 24.08.2025 (Annx.4) as well as Enquiry Report dated 24.04.2025 (Annx.39). The petitioner has further prayed for quashing of all proceedings in pursuance of the charge-sheet/notice dated 28.04.2025 (Annx.4).

3. The facts germane to the writ petition, as narrated in the writ petition and argued on behalf of the petitioner, are as under :
- 3.1 The petitioner was elected as Pradhan of Panchayat Samiti Kotkasim, District Khairthal-Tijara with effect from 30.10.2021.
- 3.2 In relation to an incident said to be happened on 21.04.2025, on a complaint filed on behalf of Shri Sanjay Yadav - the Block Development Officer, a F.I.R. No. 138 dated 21.04.2025 for the offences punishable under Sections 121(1), 132, 351(2), 351(3) & 308(3) of Bhartiya Nyaya Sanhita, 2023 was registered at Police Station Khairthal, District Khairthal-Tijara against the petitioner alleging therein that the petitioner had obstructed functioning of said Public Officer, threatened the said officer of dire consequences and also hurled her sleeper on him.
- 3.3 Regarding said incident, a five members Committee headed by the Additional Chief Executive Officer, Zila Parishad, Alwar has undertaken a preliminary enquiry and submitted its report on 24.04.2025 holding the petitioner guilty of the misconduct and disgraceful conduct. The said committee's report was then forwarded to the State Government on 24.04.2025.
- 3.4 Based on said enquiry report, the Joint Secretary, Panchayati Raj Department has issued a charge-sheet against the petitioner, under Rule 22(2) of the Rajasthan Panchayati Raj Rules of 1996 (for short "Rules of 1996") on 28.04.2025 while framing definite charges.
- 3.5 While exercising the powers under Section 38(4) of the Act of 1994, the respondent No. 2 issued the Order dated 28.04.2025 and the petitioner has been placed under suspension.
- 3.6 The suspension order dated 28.04.2025 has been challenged by the petitioner in S.B. Civil Writ Petition No. 7236/2025 (Dr. Mrs. Vinod Kumari Sangwan vs. State of Rajasthan & ors.) on the ground that the order of suspension dated 28.04.2025 was passed in a routine manner and no reasons were assigned justifying the suspension of the petitioner.
- 3.7 During the course of arguments, the Additional Advocate General appearing on behalf of the respondent-department on instructions, undertaken to withdraw the said suspension order and prayed for liberty to proceed afresh in accordance with law. In view of the said statement, the writ petition was disposed of vide Order dated 29.07.2025 and liberty was granted.
- 3.8 It was stated that the respondent authorities have, though, withdrawn the earlier suspension order vide dated 06.08.2025, however, by another order dated 06.08.2025 issued on the same day, the petitioner has again been placed under suspension.
- 4 While challenging the order of suspension, counsel for the petitioner submitted that arbitrariness on the part of the respondents is writ large as respondents have withdrawn the earlier suspension order, however, on the same charges impugned suspension order has been passed.
- 4.1 Counsel for the petitioner further submitted that the allegations contained in the F.I.R. No. 138/2025 were false and the same are subject to the investigation done by the investigating agency, which is under

way. Therefore, the issuance of the charge-sheet dated 28.04.2025 on the similar charges is not sustainable in the eyes of law.

4.2 Counsel for the petitioner asserted that preliminary enquiry report dated 24.04.2025 was only a fact finding enquiry and not an enquiry under Rule 22(1) of the Rules of 1996. Also, since the same was conducted without granting any opportunity of hearing to the petitioner, therefore, the enquiry report as well as the charge-sheet based upon the same are not tenable.

4.3 Counsel for the petitioner has also averred that after issuance of the said charge-sheet dated 28.04.2025, no Enquiry Officer has been appointed in the said enquiry and therefore, the proceedings under Section 38(1) of the Act of 1994 cannot be said to be initiated till date. Therefore, invocation of powers under Section 38(4) of the Act of 1994 for suspending the petitioner, is not justified.

4.4 Counsel for the petitioner while referring to judicial pronouncements has argued that the petitioner being a Public Representative cannot be treated at par with the government employee and therefore, the suspension order could not have been passed in a routine manner without recording any satisfactory reasons for placing her under suspension.

4.5 Counsel for the petitioner has relied upon the following judgments :-

(i) Roshani Devi vs. State of Rajasthan & ors. (S.B. Civil Writ Petition No. 6886/2011) decided on 04.03.2013

(ii) Smt. Deepika Sharma vs. State of Rajasthan reported in 2019(2) WLC (Raj.) UC 784

(iii) Smt. Vimla Devi vs. State of Rajasthan & ors. reported in 2007(4) WLC (Raj.) 378

(iv) Pradeep Hinger vs. State of Rajasthan & ors. reported in 2008(1) WLC (Raj.) 294

(v) Geeta Devi Narooka vs. State of Rajasthan & ors. reported in 2008(2) WLC (Raj) 261

(vi) The State of Rajasthan & ors. vs. Himanshu (D.B. Special Appeal Writ No. 252/2024) decided on 08.04.2024

(vii) Tulsi Ram Kushwah vs. State of Rajasthan & ors. (S.B. Civil Writ Petition No. 16011/2024) decided on 24.02.2025

5. Per contra, Mr. Kapil Prakash Mathur, learned Additional Advocate General representing the respondents has vehemently opposed the said submissions and submitted that the petitioner, though, a Public Representative, is guilty of indecent and unruly behaviour and she has been placed under suspension for the conduct, which is clearly discreditable and disgraceful for being a member of the Panchayati Raj Institution.

5.1 Counsel for the respondents submitted that the preliminary enquiry so conducted by a Committee headed by the Additional Chief Executive Officer was under Rule 22(1) of the Rules of 1996. The said

committee duly called the petitioner to make her submissions, however, in spite of repeated reminders, the petitioner remained absent, therefore, the allegation of violation of principles of natural justice is not justified.

5.2 The said committee has clearly found the petitioner guilty of misconduct and while considering the preliminary enquiry report, the competent authority has issued the charge-sheet against the petitioner under Rule 22(2) of the Rules of 1996 and has placed the petitioner under suspension vide order dated 28.04.2025. Thus, the order of suspension was passed while following the statutory provisions.

5.3 Counsel for the respondents submitted that in the earlier round of litigation i.e. S.B. Civil Writ Petition No.7236/2025, the Honâ€™ble Court was of the prima facie view that the earlier order of suspension was a unreasoned order, therefore, on instructions, the undertaking was given before this Court to withdraw the earlier suspension order, however, a clear liberty was granted by this Court to proceed in accordance with law and same has not been opposed by the petitioner.

5.4 Counsel for the respondents submitted that in similar circumstanced matter, this Court has upheld the subsequent suspension order in the case of Sangam Choudhary vs. State of Rajasthan & anr. (S.B. Civil Writ Petition No. 6663/2025) and another connected writ petition decided on 20.08.2025.

5.5 In view of the liberty granted by this Court, fresh suspension order was passed on 06.08.2025 clearly specifying that the petitioner has been found guilty of unruly and offensive behaviour towards a public servant/officer and looking to her position as a Pradhan of the Panchayat Samiti Kotkasim, there is clear likelihood of tempering with the evidence and to influence the witnesses and in such circumstances, the suspension of the petitioner was very much justified.

5.6 Counsel for the respondents has also submitted that on the one hand, unruly conduct of the petitioner amounts to an offence under the Bhartiya Nyaya Sanhita, 2023 but at the same time, it being disgraceful conduct is a misconduct under the provisions of the Act of 1994 and therefore, charges contained in the charge-sheet are valid.

5.7 Counsel for the respondents has drawn attention of this Court that while challenging the said F.I.R. No. 138/2025, the petitioner has preferred S.B. Criminal Misc. Petition No. 2509/2025 (Vinod Kumar Sangwan vs. State of Rajasthan & anr.) and the same has been dismissed by this Court vide Order dated 30.04.2025 with the following observations :-

"Per contra, learned counsel appearing for respondents has objected the contents of the petition and has submitted that the alleged incidence has occurred on 21.04.2025 in a public office, wherein, public official was threatened and a slipper was hurled at him. Moreover, he was obstructed while performing his public duties.

Considering the foregoing facts and circumstances of the case, taking note of the fact that allegations leveled in the FIR pertains to throwing of slipper on the face of public servant and that the petitioner is a habitual offender, this Court is of the opinion that powers enshrined under Section 528 of BNSS should be used sparingly. Therefore, this Court finds no reason to interfere with the present petition."

5.8 Counsel for the respondents submitted that in view of the said habitual unruly and disgraceful behaviour of the petitioner, the action for placing the petitioner under suspension was very much justified.

5.9 Learned Additional Advocate General Mr. Kapil Prakash Mathur has also stated that appointment of an Enquiry Officer under Rule 22(3) of the Rules of 1996 is not pre-requisite for initiation of enquiry under Section 38(1) of the Act of 1994, as the same is initiated by issuance of charge-sheet under Rule 22(2) of the Rules of 1996. In support of the said argument, counsel for the respondents has relied upon the judgment dated 16.12.2021 passed in D.B. Special Appeal Writ No. 962/2021 (Pankaj Mittal vs. State of Rajasthan & ors.) and prayed for dismissal of the writ petition.

6. This Court has considered rival submissions advanced by counsel for the parties and perused the material available on record.

7. So far as challenge given to the preliminary enquiry report dated 24.04.2025 on the ground that enquiry was ex-parte and in violation of principles of natural justice is concerned, this Court finds that the enquiry report has a clear mention of the fact that Enquiry Committee called upon the petitioner to remain present and submit her explanation on 23.04.2025 and 24.04.2025. However, the petitioner herself has not chosen to appear before the said Committee and remained absent.

7.1 In such circumstances, in view of the statements of the witnesses as well as evidences produced, the Committee has recorded the conclusion that the petitioner was prima facie found guilty of misconduct of assaulting a public servant which is disgraceful conduct on the part of elected representative. The committee has not commented upon the reasons for dispute so arisen between the petitioner and Shri Sanjay Yadav and has also not concluded upon the validity of the electronic evidence so made available to the committee as the same was to be considered during detail enquiry.

7.2 Although, there is no specific statutory requirement under Rule 22(1) of the Rules of 1996 to provide an opportunity of hearing during the preliminary enquiry, however, in the present case, though not voluntarily availed yet sufficient opportunity was afforded to the petitioner. Therefore, the enquiry cannot be said to be in violation of the principles of natural justice. Hence, the challenge given to the enquiry report dated 24.04.2025 is not tenable in the eyes of law.

8. Counsel for the petitioner submitted that the enquiry report nowhere contains the reference of Rule 22(1) *ibid*, therefore, same cannot be considered as an enquiry under Rule 22(1) of the Rules of 1996. Thus, no enquiry under Rule 22(1) has been conducted, before issuing the charge-sheet under Rule 22(2) of the Rules of 1996.

8.1 The law is well settled that mere non-mentioning of the relevant provision does not render an enquiry or legal proceeding invalid. The Honâ€™ble Supreme Court in the case of P.K. Palanisamy vs. N.

Arumugham & Anr. reported in 2009(9) SCC 173, has held that technical omission of citing statutory provision or even referring a wrong provision does not vitiate the proceedings or invalidate orders as long as the substance and intent are clear and legal power exists. The essence of a legal action or enquiry is not lost simply because a specific provision was not mentioned as long as the legal basis for the same exists.

8.2 In the present case, the respondents have specifically stated that the preliminary enquiry has been conducted while exercising powers and for the purpose of Rule 22(1) of the Rules of 1996, therefore, mere non-mentioning of the relevant rule, cannot nullify its effect. The said objection so raised by the petitioner is therefore, not sustainable.

9. Counsel for the petitioner has alleged that the allegations levelled in the charge-sheet dated 28.04.2025 are of the same nature as mentioned in the F.I.R. and the same is pending investigation by the police authorities, therefore, the charge-sheet containing the same charges is not tenable.

9.1 It has been consistently held by the Courts of Law that in instances where allegations stem from the same incident, the matter may justifiably give rise to the registration of a First Information Report (FIR), when elements of criminality are apparent. However, the same allegations may concurrently warrant the initiation of departmental / disciplinary action through the issuance of a charge sheet. This dual approach acknowledges the distinction between criminal liability and administrative accountability, both of which may be pursued in parallel, depending on the nature and gravity of the misconduct alleged. Although the standard of proof, nature, objectives, and consequences of a criminal trial and a departmental enquiry arising from the same set of allegations are fundamentally distinct, yet both proceedings can nonetheless run concurrently. The coexistence of both proceedings is legally permissible and often necessary, as administrative accountability can and should be addressed independently of the outcome of the criminal process. Merely because an action/conduct of the delinquent employee/public representative is subject matter of an F.I.R. due to criminality attached to it, the same does not lose its effect of being a misconduct under the relevant departmental rules.

9.2 While we acknowledge that, at this stage, this Court is not adjudicating upon the veracity or seriousness of the allegations yet, may still examine them at face value to determine whether they prima facie warrant the suspension of the elected representative. An elected representative holds a position of immense trust and responsibility. It is imperative that they act with decency, dignity, and integrity at all times. Their conduct should reflect the values of the office they occupy and serve as a positive example for others, both within and outside of public service. An unruly, disrespectful or disgraceful conduct by an elected official is not merely a personal failing, it also discredits the institution they represent, erodes public confidence and diminishes the standards of accountability and decorum expected in public life. Therefore, it is not only expected but essential that elected representatives maintain a high standard of conduct, demonstrating the values of service, respect and civic responsibility in both words and actions. 9.3 In the present case, the allegation against the petitioner is of her unruly and offensive behaviour, by which, the petitioner has tried to obstruct the functioning of a public officer and threatened him of dire consequences and also alleged that she hurled her sleeper upon the said public officer. Therefore, the allegations of such nature were rightly considered as disgraceful to the post held by the petitioner. In this view of the matter, the charges levelled

in the charge-sheet dated 28.04.2025 cannot be said to be unjustified. Thus, challenge given to the charge-sheet dated 28.04.2025 is also not sustainable.

10. The petitioner has challenged the suspension order dated 06.08.2025 on the ground that the enquiry under Rule 22(1) as well as appointment of the Enquiry Officer under Rule 22(3) of the Rules of 1996 is a sine qua non for initiation of inquiry under Section 38(1) of the Act of 1994. Since, the said pre-requisites were not complied with, invoking powers under Section 38(4) of the Act of 1994 for placing the petitioner under suspension was not justified. In this regard, counsel for the petitioner has relied upon the judgment passed in the case of *Puranmal Verma vs. State of Rajasthan & ors.* (S.B. Civil Writ Petition No. 5608/2025) decided on 14.07.2025.

10.1 This Court has already observed that the preliminary enquiry dated 24.04.2025 was an enquiry under Rule 22(1) of the Rules of 1996, hence, to the said extent, the argument of the petitioner does not sustain.

10.2 So far as contention of the petitioner regarding non-appointment of the Enquiry Officer is concerned, a bare reading of the provisions of Rule 22 of the Rules of 1996 shows that for initiation of the enquiry under Section 38(1), the only requirement is conducting a preliminary enquiry under Rule 22(1) of the Rules of 1996. Once on the basis of a preliminary enquiry, the competent authorities issues a charge-sheet under Rule 22(2) of the Rules of 1996, the proceedings under Section 38(1) of the Act of 1994 are deemed to be initiated. The proceedings as provided under Rule 22(3) to Rule 22(7) are required to be followed for taking final action under Section 38(1) of the Act of 1994 for removal of the member of Panchayati Raj Institution, however, the same is not pre-requisite for invoking the powers under Section 38(4) of the Act of 1994.

11. Learned Additional Advocate General, Mr. Kapil Prakash Mathur has submitted that the case of *Puranmal Verma* (supra) relates to removal of the member of Panchayati Raj Institution, wherein a coordinate Bench has held that complete enquiry as provided under Rule 22 of the Rules of 1996 is required to be completed before passing an order of removal, which also requires appointment of the Enquiry Officer under Rule 22(3) of the Rules of 1996. Whereas, for the purpose of exercise of powers under Section 38(4) of the Act of 1994 for placing a public representative under suspension, mere initiation of enquiry under Section 38(1) of the Act of 1994 is required. Thus, the judgment so referred by the petitioner in *Puranmal Verma's* case (supra) is not applicable in the facts of present case. It is also submitted that said judgment passed in the case of *Puranmal Verma* (supra) has been stayed by the learned Division Bench vide its Order dated 16.09.2025 passed in D.B. Special Appeal Writ No. 1085/2025 (*State of Rajasthan vs. Puranmal Verma*).

11.1 This Court in the case of *Pankaj Mittal* (supra) has clearly held that Rule 22 of the Rules of 1996 provides the different steps for completing an enquiry for taking action under Section 38(1) of the Act of 1994, however, for the purpose of taking action under Section 38(4), mere initiation of enquiry is required and which deems to began with issuance of charge-sheet. The relevant portion of the judgment is quoted below :-

"In terms of sub-section (4) of Section 38 of the said Act the State Government has power to suspend a member including a Chairperson or a Deputy Chairperson of a Panchayati Raj Institution against whom an enquiry has been initiated under sub-section (1) or against whom any criminal proceedings for an offence involving moral turpitude is pending trial in a court of law. In this respect communication dated 18.09.2020 becomes significant. As noted under this communication the Secretary required the petitioner to remain present on 27.11.2020 in connection with the complaint received against him of being involved in a trap case. Thus the enquiry as envisaged under sub-section (1) of Section 38 had already been initiated. The procedure for conducting the entire enquiry as laid down in Rule 22 of the Rules should not be concluded without initiation of enquiry as referred to in sub-section (4) of Section 38. Holding and conducting entire enquiry would require framing of formal charges against a person concerned and soliciting his response to such charges. Nevertheless when we are dealing with the situation of powers to suspend a person, the same are necessarily of interim measure and of urgent character. Sub-section (4) of Section 38 of the said Act does not envisage conduct of the whole enquiry before power of suspension can be exercised."

11.2 In view of the discussion made above, it is clear that in the present case, the petitioner has been suspended after issuance of the charge-sheet under Rule 22(2) of the Rules of 1996 and thus, pre-condition for invoking the powers under Section 38(4) of the Act of 1994 was duly satisfied and therefore, the suspension order on the said ground cannot be said to be without jurisdiction or premature.

12. So far as the contention of the petitioner regarding withdrawal of the earlier suspension order dated 28.04.2025 and issuance of the subsequent suspension order dated 06.08.2025 is concerned, it is clearly borne out from the record that the earlier suspension order dated 28.04.2025 was considered to be without recording of the satisfaction regarding situation justifying the suspension of the petitioner and therefore, same was allowed to be withdrawn, however, a liberty was granted to the respondents to proceed in accordance with law. While invoking the said liberty, the respondents have passed the order of suspension dated 06.08.2025 wherein, not only the charges levelled against the petitioner were mentioned but also the reasons justifying the said suspension have been duly explained.

12.1 Counsel for the respondents, in this regard, has relied upon the judgment passed by this Court in the case of Sangam Choudhary (supra), wherein this Court in similar circumstances has upheld the subsequent suspension order, which was passed after withdrawal of the earlier suspension order.

13. Counsel for the petitioner has pressed much reliance on the judgment passed in the case of Tulsi Ram Kushwah (supra), which has been passed in view of the judgment rendered in the case of Himanshu (supra). A perusal of the judgment passed in the case of Tulsi Ram Kushwah (supra) shows that in the said case, the impugned order did not reflect any satisfaction for placing an elected representative under suspension and it was a case of supervisory negligence in issuance of the patta and the Honâ€™ble Court observed that the Sarpanch alone could not have been blamed.

13.1 So far as judgment passed in the case of Himanshu (supra) is concerned, the said appeal was against the interim order passed by the learned Single Bench wherein, it was held that without recording any

satisfaction, the suspension is imperative for a smooth enquiry, such suspension order is not sustained.

13.2 The said judgments in the cases of Tulsi Ram Kushwah (supra) and Himanshu (supra) have been passed in view of the peculiar facts of the said cases and same are having no application in the present case as neither in the present case, the allegations against the petitioner are of the nature of supervisory negligence nor the suspension order is bereft of necessary recording of satisfaction.

13.3 However, a perusal of the suspension order passed in the present case shows that detailed reasons have been supplied by the respondents and thus, the said judgments are also having no application in the facts of the present case.

14. The judgment relied upon by the petitioner in the case of Roshani Devi (supra) shows that in the said case, the order for removal was passed in case of a Sarpanch, which was passed without undertaking the complete enquiry as provided under Rule 22 of the Rules of 1996 and therefore, the order of removal was set aside by a coordinate Bench of this Court. The facts of the said case are not akin to the facts of the present case, hence, is of no help to the petitioner.

15. In the case of Smt. Deepika Sharma (supra) as relied upon by the petitioner, the Sarpanch of the Gram Panchayat Shahar, Panchayat Samiti Nadoti, District Karauli was suspended after eight months from the date of issuance of the charge-sheet and therefore, this Court has held that no justified reason was brought on record for suspending the said petitioner on a belated stage. However, in the case in hand, the petitioner has been suspended immediately after the charge-sheet has been issued and the detailed reasons have also been given as to how her presence is going to affect the enquiry in question. In such circumstances, said judgment is extending no support to the petitioner.

16. The judgments relied upon by the petitioner in the cases of Smt. Vimla Devi (supra), Pradeep Hinger (supra) and Geeta Devi Narooka (supra), are relating to the suspension of the Chairman of the Municipality and the same have been passed in a different set of facts and in relation to a different set of statutory provisions and therefore, same are having no application in the facts of the present case.

17. This Court is conscious of the fact that the case of a public representative cannot be treated at par with the case of a government employee as they are elected representatives and their appointment is for a limited period. However, in view of the peculiar facts of the present case, where the petitioner has been issued charge-sheet with the allegations of threatening and assaulting the public servant/officer, which was considered by the authorities to be a conduct disgraceful to the post held by the petitioner as well as unbecoming of a public representative. The order of suspension also records the satisfaction that presence of the petitioner who is holding the post of the Pradhan in the same office can affect the free and fair

enquiry, therefore, no interference by this Court is warranted.

18. In view of the above discussion, this Court does not find any merit in the present writ petition and same is hereby dismissed.

19. The stay application also stands rejected.

20. Pending application(s), if any, also stand disposed of accordingly.