

(2012) 10 AHC CK 0197**Allahabad High Court****Case No:** Civil Miscellaneous Writ Petition No. 56016 of 2012

Smt. Gainda Devi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Oct. 31, 2012**Citation:** (2012) 11 ADJ 717**Hon'ble Judges:** Vineet Saran, J; Mushaffey Ahmad, J**Bench:** Division Bench**Advocate:** Gopal Verma, for the Appellant;**Final Decision:** Allowed**Judgement**

1. Heard learned counsel for the petitioner as well as learned Standing Counsel appearing for the respondents and perused the record. By consent of the learned counsel for the parties, we dispose of this writ petition at this stage without calling for a counter-affidavit.
2. The case of the petitioner is that on a vacancy of fair price shop in the village in question, the Gram Sabha passed a resolution in favour of the petitioner, which was duly communicated by the Block Development Officer to the Sub-Divisional Magistrate, who is the Chairman of the Tehsil Level Committee and who has to take a decision in the matter.
3. The petitioner is aggrieved by the order dated 17.7.2012 passed by the Tehsil Level Committee including the Sub-Divisional Magistrate as respondent No. 2, who is the Chairman of the said Committee.
4. The submission of the learned counsel for the petitioner is that the said order has been passed on a complaint received on 17.7.2012 at the Tehsil Diwas and on the same date the meeting of the Tehsil Level Committee was held and averments made in the compliant were accepted as gospel truth and the recommendation made by the Gram Sabha has been turned down and direction has been issued to the Gram Sabha to pass a fresh resolution.

5. It is contended that neither enquiry with regard to contents of the complaint had been made by the Sub-Divisional Magistrate or by any other competent officer nor the petitioner was given any opportunity of hearing prior to the decision having been taken by the Committee.

6. It is true that the Committee had the authority to entertain the complaint and take cognizance, but the same would not mean that the Committee can proceed to act solely on the basis of the complaint without testing its veracity. The committee cannot be permitted to proceed in such arbitrary manner and if the same is permitted, in every case at the last moment complaint can be filed and treating the same as correct without enquiring into the complaint and without giving the affected party any opportunity of hearing, each and every resolution of the Gram Sabha can be set aside.

7. In such view of the matter, we are of the opinion that the decision of the Tehsil level Committee insofar as it relates to the case of the petitioner deserves to be quashed.

8. Accordingly, this writ petition stands allowed. The decision of the Tehsil Level Committee dated 17.7.2012 insofar as it relates to the petitioner is quashed. The Tehsil Level Committee shall have to take a fresh decision in accordance with law, after getting the contents of the complaint made on 17.7.2012 verified and if necessary, after giving opportunity of hearing to the petitioner. Such decision would be taken as expeditiously as possible, preferably within six weeks from the date of filing of certified copy of this order before respondent No. 2-Sub-Divisional Magistrate, Lalganj, district Mirzapur. No order as to costs.