

namely Sri Chaturvedi had itself been cancelled prior to issue of select list by the respondents. Thereafter, the respondents have issued a fresh advertisement no.3 of 2024.

26. Once even a selected candidate has got no indefeasible right for appointment and the petitioner was never declared as selected and a fresh advertisement has been issued consequently this Court does not have any occasion to direct the respondents to make selection from the earlier advertisement more particularly when a fresh advertisement has already been issued by the respondents.

27. So far as challenge raised to the advertisement no.3 of 2024 is concerned whereby as per the petitioner the qualification has been changed for the post in question even without seeking the approval from the UGC and the said qualification being not a qualification prescribed by the UGC, suffice to state that the last date fixed for receipt of applications in terms of the said advertisement was 06.04.2024. In case the petitioner was aggrieved by the said advertisement he should have challenged it within the last date fixed for receipt of the applications but he chose not to do so and only in the month of August 2024 that he has chosen to challenge the said advertisement by means of instant petition. For this act, the petitioner has to thank himself and the Court is not expected to come to the rescue of a litigant who chooses not to challenge the advertisement timely rather challenges it only at the time when the said selection has proceeded to a substantial stage.

28. Keeping in view the aforesaid discussion, no case for interference is made

out. Accordingly, the writ petition is dismissed.

(2024) 11 ILRA 175

**ORIGINAL JURISDICTION
CIVIL SIDE**

DATED: LUCKNOW 20.11.2024

BEFORE

THE HON'BLE ABDUL MOIN, J.

Writ-A No. 10894 of 2024

**Gram Panchayat Pratappur Chamurkha
...Petitioner**

Versus

State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:

Mohan Singh

Counsel for the Respondents:

C.S.C.

A. Service Law-Constitution of India,1950-Article 226-The petitioner, Gram Panchyat, Chamurkha filed a writ petition challenging the adjustment order dated 6.07.2024, appointing respondent no.6 as Rojgar Sewak in the Gram Panchayat, and the rejection of their representation dated 21.10.2024-The Allahabad High Court, Lucknow Bench, dismissed the petition on the grounds of lack of locus standi-The court held that the petitioner failed to establish any legal injury or right affected by the impugned orders-The petitioner raised various grounds, including non-residency of the appointee, lack of disciplinary authority, absence of rules for adjustment and alleged expiration of appointment tenure-However, these grounds were found to be legally unsustainable-Furthermore, the petitioner's reliance on the decision in Smt. Geeta Devi case was deemed inapplicable to the facts of this case-The court reiterated that only a person aggrieved by a legal injury can challenge

an act, and mere sentimental or fanciful grievances are insufficient.(Para 1 to 20)

The writ petition is dismissed. (E-6)

List of Cases cited:

1. Smt. Geeta Devi Vs Uma Shanker Yadav & ors., SPLAD No. 681 of 2010
2. Ravi Yashwant Bhoir Vs Collector (2012) 4 SCC 407
3. R Vs London Country Keepers of the Peace of Justice(1890) 25 QBD 357
4. Dharam Raj Vs St. of U.P. & ors. (2010) 2 AWC 1878 All

(Delivered by Hon'ble Abdul Moin, J.)

1. Heard Sri Mohan Singh, learned counsel for the petitioner, and Dr. Udai Veer Singh, learned Additional Chief Standing Counsel appearing for the State-respondents.

2. Instant petition has been filed by the Gram Panchayat raising a challenge to the order dated 21.10.2024 passed by respondent no.3, a copy of which is Annexure-1 to the petition, whereby the representation preferred by the petitioner has been rejected. Also under challenge is that the order dated 06.07.2024, a copy of which is Annexure-2 to the petition, whereby respondent no.6 has been adjusted on the post of Rojgar Sewak in Gram Panchayat Pratappur Chamurkha.

3. A pointed query has been put to the learned counsel for the petitioner as to the locus of the village panchayat to challenge the adjustment order of respondent no.6.

4. Sri Mohan Singh, learned counsel for the petitioner, has been unable to explain the locus of the Gram Panchayat

in challenging the order of adjustment of respondent no.6 rather has urged various grounds on which the adjustment order is bad although has placed reliance on the Division Bench judgment of this Court passed in **Special Appeal Defective No.681 of 2010 in re: Smt. Geeta Devi vs. Uma Shanker Yadav and others** decided on 28.07.2010. As Sri Singh has vehemently argued on various grounds as such the Court proceeds to deal with the said grounds subsequent to considering the locus of the petitioner to file the petition.

5. As already indicated above, the Gram Panchayat has filed the instant petition being aggrieved by the adjustment order of respondent no.6 in the petitioner's Gram Panchayat as Rojgar Sewak. As such, at the outset, the locus of the petitioner has to be seen.

6. The question of locus has been considered by Hon'ble Supreme Court in the case of **Ravi Yashwant Bhoir Vs Collector** reported in **(2012) 4 SCC 407**, wherein the Hon'ble Supreme Court has held as under:-

*"...A legal right is an averment of entitlement arising out of law. In fact, it is a benefit conferred upon a person by the rule of law. Thus, a person who suffers from legal injury can only challenge the act or omission. There may be some harm or loss that may not be wrongful in the eyes of law because it may not result in injury to a legal right or legally protected interest of the complainant but juridically harm of this description is called **damnum sine injuria** A fanciful or sentimental grievance may not be sufficient to confer a locus stand to sue upon the individual. There must be injuria or a legal grievance*

which can be appreciated and not a stat pro rationed valuntas reasons."

(emphasis by the Court)

7. In the case of **R. v. London Country Keepers of the Peace of Justice, (1890) 25 QBD 357**, the Court has held as under:

"A person who cannot succeed in getting a conviction against another may be annoyed by the said findings. He may also feel that what he thought to be a breach of law was wrongly held to be not a breach of law by the Magistrate.

He thus may be said to be a person annoyed but not a person aggrieved, entitle to prefer an appeal against such order."

(emphasis by the Court)

8. A Division Bench of this Court in the case of **Dharam Raj vs. State of U.P. and others-(2010) 2 AWC 1878 (All)** has held as under:-

"12. According to our opinion a "person aggrieved" means a person who is wrongly deprived of his entitlement which he is legally entitled to receive and it does not include any kind of disappointment or personal inconvenience. "Person aggrieved" means a person who is injured or he is adversely affected in a legal sense.

13. It is settled law that a person who suffers from legal injury only can challenge the act/action/order etc. by filing a writ petition."

9. From perusal of the judgment of Hon'ble Supreme Court in the case of **Ravi Yashwant Bhoir (supra)** it clearly emerges that it is only a person who suffers from legal injury who can challenge the

said act or omission. There may be some harm or loss that may not be wrongful in the eyes of law because it may not result in injury to a legal right or legally protected interest. A fanciful or sentimental grievance may not be sufficient to confer a locus to sue upon the individual.

10. Likewise, from the judgment of this Court in the case of **Dharam Raj (supra)**, it also emerges that a person who suffers from legal injury only can challenge the act/action/order by filing a writ petition and that a person aggrieved would mean a person who is wrongly deprived of his entitlement which he is legally entitled to receive.

11. After summarizing the principles on the point of locus of a person to challenge the order, the Court now proceeds to consider the grounds as raised by the petitioner in order to challenge the orders impugned.

12. The argument of learned counsel for the petitioner is that the orders impugned are bad in the eyes of law as (a) the Rojgar Sewak who is to be appointed should be a resident of the same village, (b) as the Gram Panchayat is not the appointing authority of respondent no.6 consequently the Gram Panchayat would be precluded from initiating any disciplinary proceedings against her in case she commits any misconduct, (c) there is no provision for adjustment of a Rojgar Sewak in some other village, and (d) as the respondent no.6 had been appointed on 16.05.2008 and she could only have been appointed for a period of three years and as such she could not have been validly adjusted beyond a period of three years in the Gram Panchayat of the village of the petitioner.

13. As regards ground (a) that the Rojgar Sewak to be appointed should be of the same village, the said ground is patently misconceived considering the fact that the respondent no.6 has not been **appointed** in the Gram Panchayat rather she has been posted on an adjustment. Thus, the said ground is rejected.

14. As regards ground (b) that in case any irregularly is committed by respondent no.6, the petitioner Gram Panchayat would be unable to take any action as it is not the appointing authority, the said ground also merits to be rejected out rightly inasmuch as once the respondent no.6 has been appointed by some other Gram Panchayat and has been adjusted in the Gram Panchayat of the petitioner, it would always be open for the petitioner Gram Panchayat to inform the Gram Panchayat by which the respondent no.6 may have been appointed to initiate proceedings against her or to act against her.

15. So far as the ground (c) that there are no rules or any circular for adjustment of a Rojgar Sewak, learned counsel for the petitioner has also been unable to indicate that there is any bar that a Rojgar Sewak who has been appointed cannot be adjusted in any village. The said ground is also rejected.

16. So far as ground (d) is concerned, the said ground is also found to be patently misconceived considering that the petitioner himself admits that the respondent no.6 had been appointed way back in the year 2008 and has been continuing since last 16 years. The petitioner has not brought on record the appointment order or even the extension order of respondent no.6 to indicate that she could not have continued beyond three years or for that matter her last extension was made

prior to a period of three years. Thus, in the absence of any document to indicate to the contrary, the said ground is also rejected.

17. Thus, from a perusal of the aforesaid discussion it is apparent that none of the grounds as have been raised by the petitioner are legally sustainable in the eyes of law.

18. Once from perusal of the aforesaid grounds as raised by the petitioner it does not emerge that the petitioner has got any legal right or entitlement arising out of law and no legal injury has been sustained by him after passing of the aforesaid orders impugned, consequently the petitioner has no locus to challenge the orders impugned.

19. As regards the judgment of this Court in the case of **Smt. Geeta Devi (supra)**, suffice to state that the said judgment has not dealt with the locus of the Gram Panchayat to challenge the order of adjustment of Gram Rojgar Sewak. Thus, the said judgment would have no applicability in the facts of the instant case.

20. Keeping in view the aforesaid discussion the writ petition is dismissed.

(2024) 11 ILRA 178

**ORIGINAL JURISDICTION
CIVIL SIDE**

DATED: ALLAHABAD 08.11.2024

BEFORE

**THE HON'BLE SAURABH SHYAM
SHAMSHERY, J.**

Writ- B No. 504 of 2023

Mahendra Singh

...Petitioner

Versus

Board of Revenue U.P. & Ors.

...Respondents