



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 2707/2025

Madhu Kanwar W/o Kamlendra Singh Hada, Aged About 45 Years, R/o In Front Of Thana Ward No. 5, Indra Colony, Bhabhanagar, Rawatbhata, Chittorgarh, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Chief Secretary Government Of Rajasthan, Government Secretariat Jaipur.
2. The Secretary Local Self Department, Government Of Rajasthan Jaipur.
3. The Director, Local Self Department Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. M.A. Siddiqui, Mr. Sikander Khan & Ms. Hena Aman Siddiqui
For Respondent(s)	:	Mr. Rajendra Prasad, Sr. Adv. & AG with Mr. Rajesh Panwar, Sr. Adv. & AAG with Mr. Anirudh Singh Shekhawat & Mr. Mudit Vaishnav

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Reportable

Order

25/02/2025

1. Heard learned counsel for the parties.
2. The present writ petition has been filed with a prayer that the Notification dated 25.11.2024 issued by the respondents for appointment of Administrator/Authority of the Rawatbhata Municipality may be quashed and set aside.
3. Briefly noted the facts of the case are that the Rawatbhata Municipality was constituted by the State of Rajasthan exercising the powers enshrined under the Rajasthan Municipalities Act, 2009 (hereinafter referred to as 'the Act of 2009') and after conducting



the elections, the Ward Members and its Chairperson were appointed. After the expiry of the tenure of the Municipality of Rawatbhata and other Municipalities, the State Government issued a Notification on 25.11.2024 stating that on completion of the tenure of 49 Municipalities of the State of Rajasthan, the Administrators/ Authorities are appointed to look after the day to day work of these Municipalities. The Notification dated 25.11.2024 has been challenged by the petitioner by way of filing the present writ petition on the ground that the Administrator/Authority appointed by the State Government vide Notification dated 25.11.2024 is de hors the law.

4. Learned counsel for the petitioner vehemently submits that there is no provision in the Act of 2009, whereby, the appointment of Administrator/Authority can be appointed in the situation when the tenure of the Municipalities established under the law has been completed. He submits that the provisions of Section 322 of the Act of 2009 have been disregarded by issuing the Notification dated 25.11.2024. He submits that the procedure provided under Section 322 of the Act of 2009 has not been followed while issuing the Notification dated 25.11.2024. He, therefore, prays that the writ petition may be allowed and the Notification dated 25.11.2024 issued by the State Government appointing the Administrator/Authority of the Rawatbhata Municipality may be quashed and set aside.

5. *Per contra*, Mr. Rajendra Prasad, learned Senior Advocate & Advocate General appearing on behalf of the State submits that the Notification dated 25.11.2024 has been issued strictly in accordance with the law and as per the mandate of Section 320 of



the Act of 2009. He submits that Section 320 of the Act of 2009 mandates the State Government to appoint any officer, committee or authority after creation of the Municipality to function and exercise the powers and duties mentioned in the Act of 2009. He submits that although there are no facts pleaded in the writ petition that when the Municipality was constituted and when the term of the Municipality has expired, yet in the present case, the only challenge is made to the appointment of the Administrator/Authority by the State of Rajasthan vide Notification dated 25.11.2024, therefore, other factual issues are not being joined by him.

6. Learned Advocate General further submits that the State is fully empowered to appoint an officer, committee or authority under Section 320 of the Act of 2009 to look after and to perform the functions of the Municipality after its creation and before the same is established in accordance with law. He submits that in the present case, since in 49 Municipalities of the State of Rajasthan, the tenure of the elected members had expired on 25.11.2024, therefore, until the new Municipalities are established in accordance with Section 11 of the Act of 2009, the State Government has appointed an Administrator/Authority by Notification dated November 25, 2024, to manage the day-to-day functions of the Municipalities during this intergenum period. He, therefore, prays that the Notification dated 25.11.2024 does not suffer from any infirmity and the writ petition may be dismissed.

7. I have considered the submissions made at the Bar and gone through the relevant record of the case.



8. The undisputed facts in the present case are that after creation of the Municipality at Rawatbhata, the same was established and an elected Board was functioning. After the expiry of the tenure of 49 Municipalities in the State of Rajasthan including Rawatbhata on 25.11.2024, the State Government has issued a Notification dated 25.11.2024, whereby, the Administrator/Authorities were appointed to look after the day to day affairs of the respective Municipalities and to carry out the functions. The argument of learned counsel for the petitioner that the Notification dated 25.11.2024 is de hors the law is required to be looked into from the perspective of Section 320 of the Act of 2009.

9. For brevity, Section 320 of the Act of 2009 is reproduced as under :-

320. Exercise of Municipality's power pending its establishment.

- When a new Municipality is 'created', such officer, committee or authority as may be appointed by the State Government in this behalf may, until a. Municipality is established in accordance with the provisions of this Act, exercise the powers and discharge the duties and perform functions of the Municipality and such officer, committee or authority shall for the purposes of this Act be deemed to be the Municipality:

Provided always that such officer, committee or authority shall within six months of the creation of the Municipality make arrangements for the holding of the first elections and generally of hastening the assumption by the Municipality of its duties when constituted:

Provided further that no such officer, committees or authority shall be entitled to propose or to impose any new tax and to make bye-laws.

(Emphasis supplied)



10. A bare reading of Section 320 of the Act of 2009 clearly shows that after 'creation' of a Municipality, the State Government is empowered to appoint an officer, committee or authority on its behalf until a Municipality 'established' under the provisions of this Act exercises the powers and discharge the duties and perform the functions of the Municipality. In the present case, since the Municipality established under the law has completed its tenure and till the fresh election takes place and a new Municipality is established in accordance with the provisions of Section 11, the affairs of the Municipality cannot be allowed to be kept in abeyance and, therefore, to perform the day to day affairs and duties of a Municipality, the State Government is competent to appoint an officer, committee or authority to perform the functions of the Municipality till a newly constituted elected member of Municipality is established in accordance with Section 11 of the Act of 2009. In the present case, since the 49 Municipalities of the State Government had completed their tenure and till the new Municipalities are established in accordance with the provisions of Section 11 of the Act of 2009, the State Government has issued a Notification on 25.11.2024 for appointment of Administrators /Authorities to look after the functions of those 49 Municipalities. In the humble opinion of this Court, the Notification dated 25.11.2024 is perfectly justified and in consonance with the provisions of Section 320 of the Act of 2009.

11. The argument of learned counsel for the petitioner that the recourse of Section 322 of the Act of 2009 has not been taken by the State Government while appointing the Administrator /Authority is noted to be rejected only on the ground that the



recourse to Section 322 of the Act of 2009 is taken only when the Municipality is dissolved on the ground of incompetency or having less than 2/3rd elected members. Since both the contingencies are not present in the present case, the provisions of Section 322 of the Act of 2009 were not rightly exercised by the State Government. Thus, the Notification issued by the State Government on 25.11.2024 does not require any interference as the same has been issued in consonance with the provisions of law.

12. It is further noted that intention of the legislature is very clear that as per the proviso to Section 320 of the Act of 2009 such arrangement of appointment of Officer, Committee or Authority shall continue for a maximum period of six months and within six months, the Municipality shall be established in accordance with law.

13. In view of the discussions made here-in-above, the present writ petition is devoid of merit and the same is, hereby, dismissed.

14. The stay application and other pending applications, if any, also stand disposed of.

(VINIT KUMAR MATHUR),J

57-SanjayS/-