

HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW)

Court No.- 7

WRIT – C NO. 6488 of 2025

Raj Kishor Yadav

.... Petitioners

Versus

State Of U.P. Thru. Prin. Secy. (Panchayat Raj) And 2 Others

....Respondents

Counsel for Petitioner(s): Pankaj Gupta

Counsel for Respondent(s): S.M. Roykwar, AAG, C.S.C., Dinesh Kumar Mishra, Dinesh Kumar Singh, Sandeep Kumar Srivastava, Sumit Chauhan

CORAM: HON'BLE PANKAJ BHATIA, J.

J U D G M E N T

1. Heard Shri Pankaj Gupta, learned counsel for the petitioner and Shri S.M. Roykwar, learned Additional Advocate General assisted by learned Additional Chief Standing Counsel for the respondents/State.
2. Present petition has been filed challenging the order dated 28.06.2025 whereby the petitioner has been removed as Gram Pradhan in exercise of powers under Section 95(1)(g)(ii) & (iii) of U.P. Panchayat Raj Act.
3. Submission of learned counsel for the petitioner is that the petitioner has been removed as an elected Gram Pradhan in exercise of

powers under Section 95(1)(g) of U.P. Panchayat Raj Act taking recourse of Clause (ii) and (iii), which are as under:

95. Inspection.—(1) *The State Government may—*

...

(g) remove a Pradhan or member of a Gram Panchayat or a joint committee or Bhumi Prabandhak Samiti, if he—

...

(ii) refuses to act or becomes incapable of acting for any reason whatsoever or if he is accused of or charged for an offence involving moral turpitude,

(iii) has abused his position as such or has persistently failed to perform the duties imposed by the Act or rules made thereunder or his continuance as such is not desirable in public interest, or”

4. It is argued that an FIR was lodged against the petitioner being FIR No.18 of 2025, under Section 11 of Prevention of Animal Cruelty Act and Section 3/5A/8 of U.P. Prevention of Cow Slaughter Act, 1955. He draws my attention to the contents of the FIR wherein it has been stated that based upon information received, a search was carried out and three persons were apprehended including the petitioner. It was stated that in their presence, 11 bovines were found to be tied with a rope and the said three persons pleaded and accepted that they used to keep the animals in the Jungle and whenever they could gather resources, they would kill the said bovines and sell their meat for commercial purposes.

5. In the light of the said, it is argued by learned counsel for the petitioner that the FIR itself indicates and even if admitted to be true for the sake of arguments, that the persons apprehended were planning to commit the crime which, according to him, does not even amount to an offence under the Act. He further argues that in any case, the allegations levelled in terms of the FIR cannot be termed as an offence involving moral turpitude which is *sine qua non* for exercising the drastic power of removal of Pradhan. It is further argued that no material exists as per Clause (iii) of Section 95(1)(g) of U.P. Panchayat Raj Act.

6. Reliance is placed upon the judgment of this Court in the case of ***Aijaz Ahmad vs. Niyaz Ahmad Khan and Anr.; 1975 SCC OnLine All***

111 wherein this Court after considering the similar issue with regard to removal of a Gram Pradhan and alleged involvement in the cow slaughter, had interfered and relying upon a Full Bench decision in the case of ***Buddha Pitai vs. Sub-Divisional officer; AIR 1965 All 382*** as well as another judgment of this Court in the case of ***Mangali vs. Chhakki Lal & Ors.; AIR 1963 All 527***, held that the removal of Pradhan was not proper and the order of removal was quashed, however, the final relief was not granted as the election had already been held.

7. It is further argued that the phrase ‘offence involving moral turpitude’, although not defined in IPC or BNS’, came up for interpretation before the Supreme Court in the case of ***Pawan Kumar vs. State of Haryana and Anr.; (1996) 4 SCC 17*** in the context of service jurisprudence and the Supreme Court held as under:

“12. “Moral turpitude” is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity. The Government of Haryana while considering the question of rehabilitation of ex-convicts took a policy decision on 2-2-1973 (Annexure E in the Paper-book), accepting the recommendations of the Government of India, that ex-convicts who were convicted for offences involving moral turpitude should not however be taken in government service. A list of offences which were considered involving moral turpitude was prepared for information and guidance in that connection. Significantly Section 294 IPC is not found enlisted in the list of offences constituting moral turpitude. Later, on further consideration, the Government of Haryana on 17/26-3-1975 explained the policy decision of 2-2-1973 and decided to modify the earlier decision by streamlining determination of moral turpitude as follows:

“... The following terms should ordinarily be applied in judging whether a certain offence involves moral turpitude or not;

(1) whether the act leading to a conviction was such as could shock the moral conscience of society in general.

(2) whether the motive which led to the act was a base one.

(3) whether on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society.

Decision in each case will, however, depend on the circumstances of the case and the competent authority has to exercise its discretion while taking a decision in accordance with the above-mentioned principles. A list of offences which involve moral turpitude is enclosed for your information and guidance. This list, however, cannot be said

to be exhaustive and there might be offences which are not included in it but which in certain situations and circumstances may involve moral turpitude.”

Section 294 IPC still remains out of the list. Thus the conviction of the appellant under Section 294 IPC on its own would not involve moral turpitude depriving him of the opportunity to serve the State unless the facts and circumstances, which led to the conviction, met the requirements of the policy decision above-quoted.”

8. Further reliance is placed upon the judgment in the case of **Allahabad Bank and Anr. v. Deepak Kumar Bhola; (1997) 4 SCC 1** wherein once again the phrase ‘mortal turpitude’ came up for interpretation and the Supreme Court relied upon its earlier judgment in the case of **Pawan Kumar (Supra)** and recorded as under:

“9. This Court in Pawan Kumar v. State of Haryana [(1996) 4 SCC 17 : 1996 SCC (Cri) 583] (SCC at p. 21) dealt with the question as to what is the meaning of the expression “moral turpitude” and it was observed as follows:

“ ‘Moral turpitude’ is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity.”

This expression has been more elaborately explained in Baleshwar Singh v. Distt. Magistrate and Collector [AIR 1959 All 71] where it was observed as follows:

“The expression ‘moral turpitude’ is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be moral turpitude, but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellowmen or to the society in general. If therefore the individual charged with a certain conduct owes a duty, either to another individual or to the society in general, to act in a specific manner or not to so act and he still acts contrary to it and does so knowingly, his conduct must be held to be due to vileness and depravity. It will be contrary to accepted customary rule and duty between man and man.”

9. Very recently the Supreme Court had once again interpreted the phrase ‘moral turpitude’ in the case of **The State Bank of India & Ors. vs. P. Soupramaniane; (2019) 18 SCC 135** and recorded as under:

“9. “Moral Turpitude” as defined in Black's Law Dictionary (6th Edn.) is as follows:

“Moral Turpitude.—The act of baseness, vileness, or the depravity in the private and social duties which man owes to his fellow man, or to society in general, contrary to accepted and customary rule of right

and duty between man and man.” [Black's Law Dictionary (6th Edn.) p. 1008.]

“implies something immoral in itself regardless of it being punishable by law”; “restricted to the gravest offences, consisting of felonies, infamous crimes, and those that are malum in se and disclose a depraved mind.” [Id, p. 1517.]

10. According to Bouvier's Law Dictionary, “Moral Turpitude” is:

“An act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man.”

11. Burton Legal Thesaurus defines “Moral Turpitude” as:

“Bad faith, bad repute, corruption, defilement, delinquency, discredit, dishonour, shame, guilt, knavery, misdoing, perversion, shame, vice, wrong.”

10. In the light of the said, it is argued that the FIR in question only alleges that the accused including the petitioner, were preparing for an offence; no allegation of offence being committed is levelled in the FIR. He draws my attention to the provisions of U.P. Prevention of Cow Slaughter Act, 1955 and draws my attention to the definition of ‘Beef’ as defined under Section 2(a), which reads as under:

“2. Definitions.- In this Act unless there is anything repugnant in the subject or context :

(a) ‘beef’ means flesh of cow but does not include such flesh contained in sealed containers and imported as such into Uttar Pradesh.”

11. He draws my attention to Section 3 which prohibits cow slaughter, which reads as under:

“3. Prohibition of Cow Slaughter. - No person shall slaughter or cause to be slaughtered, or offer or cause to be offered for slaughter, a cow, bull or bullock in any place, in Uttar Pradesh, anything contained in any other law for the time being in force or any usage or custom, to the contrary notwithstanding.”

12. He also draws my attention to Section 5 which prohibits sale of beef except as provided and contained in any other law for the time being and subject to exceptions as contained in the said Section. Section 5 reads as under:

“5. Prohibition on sale of beef. - Except as herein excepted and notwithstanding anything contained in any other law for the time being in force, no person shall sell or transport or offer for sale or transport or

cause to be sold or transported beef or beef products in any form except for such medicinal purposes as may be prescribed.

Exception.—A person may sell and serve or cause to be sold and served beef or beef-products for consumption by a bonafide passenger in an aircraft or railway train.”

13. My attention is also drawn to Section 5-A which regulates the transport of cow, etc., which reads as under:

“5-A. Regulation on transport of cow, etc. - (1) *No person shall transport or offer for transport or cause to be transported any cow, or bull or bullock, the slaughter whereof in any place in Uttar Pradesh is punishable under this Act from any place within the State to any place outside the State, except under a permit issued by an officer authorized by the State Government in this behalf by notified order and except in accordance with the terms and conditions of such permit.*

(2) *Such officer shall issue the permit on payment of such fee not exceeding five hundred rupees for every cow, bull or bullock as may be prescribed :*

Provided that no fee shall be chargeable where the permit is for transport of the cow, bull or bullock for a limited period not exceeding six months as may be specified in the permit.

(3) *Where the person transporting a cow, bull or bullock on a permit for a limited period does not bring back such cow, bull or bullock into the State within the period specified in the permit, he shall be deemed to have contravened the provision of sub-section (1).*

(4) *The form of permit, the form of application therefor and the procedure for disposal of such application shall be such as may be prescribed.*

(5) *The State Government or any officer authorized by it in this behalf by general or special notified order, may, at any time for the purpose of satisfying itself or himself, as to the legality or propriety of the action taken under this section, call for and examine the record of any case and pass such orders thereon as it or he may deem fit.*

(6) *Where the said conveyance has been confirmed to be related to beef by the competent authority or authorised laboratory under this act, the driver, operator and owner related to transport, shall be charged with the offence under this act, unless it is not proved that transport medium used in crime, despite all its precautions and without its knowledge, has been used by some other person for causing the offence.*

(7) *The vehicle by which the beef or cow and its progeny is transported in violation of the provisions of this Act and the relevant rules, shall be confiscated and seized by the law enforcement officers. The concerned District Magistrate/Commissioner of Police will do proceedings of the confiscation and released, as the case may be.*

(8) *The cow and its progeny or the beef transported by the seized vehicle shall also be confiscated and seized by the Law Enforcement Officer. The concerned District Magistrate/Commissioner will do all proceedings of the confiscated and release as the case may be.*

(9) The expenditure on the maintenance of the seized cows and its progeny shall be recovered from the accused for a period of one year or till to release of the cow and its progeny in favour of the owner thereof whichever is earlier.

(10) Where a person is prosecuted for committing abetting, or attempting to an offence under section 3, 5 and 8 of this Act and the beef or cow-remains in the possession of the accused has been proved by the prosecution and transported things are confirmed to be beef by the competent authority or authorized laboratory, then the court shall presume that such person has committed such offence or attempt or abetting of such offence, as the case may be, unless the contrary is proved.

(11) Where the provision of this act or the related rules in context of search, acquisition, disposal and seizure are silent, the relevant provisions of the code of criminal procedure, 1973 shall be effective thereto."

and also the mandate of Section 8 which provides for penalty in the contravention of provisions contained in Section 3, 5 & 5-A, which also reads as under:

"8. Penalty. - *(1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3, 5 or section 5(a) shall be guilty of an offence punishable with rigorous imprisonment for a term which shall not be less than three years and which may be extend to 10 years and with fine which shall not be less than 3 lakh rupees and which may extend to 5 lakh rupees.*

(2) Whoever after conviction of an offence under this act is again guilty of an offence under this act shall be punished with double the punishment provided for the said offence for the second conviction.

(3) The names and the photographs of the person accused of the contravention of the provision of section 5(a) shall be published at some prominent place in locality where accused ordinarily resides or to a public place, if he concealed himself from the law enforcement officers."

14. In the light of the said, it is argued that in the FIR there is no allegation against the petitioner that there was any act of cow slaughter even if the allegations are treated to be true, for the sake of arguments. It is further argued that Section 5-A under which the petitioner is accused, is only a regulatory provision and thus, there is no absolute restriction in transport of cow etc., and the same is only regulated and not prohibited in its true sense.

15. He further argues that even the transport of cow, although not alleged, will still not form an offence, thus, according to him, on the conjoint reading of the mandate of the U.P. Prevention of Cow Slaughter

Act and the provisions as highlighted above, firstly there is no allegation of any offence and secondly the same can in no way termed to be an 'offence involving moral turpitude'.

16. Shri S.M. Royekwar, learned Additional Advocate General appearing for the respondents/State states that cow and its slaughter have huge significance for the majority community in the country and considering the fact that the petitioner being a Gram Pradhan was found to be accused of the offence for which a charge sheet has also been filed, he was rightly removed by invoking the powers under Section 95(1)(g)(ii) & (iii) of U.P. Panchayat Raj Act.

17. He further draws my attention to argue that cows and its progeny are intrinsically linked with the religious and cultural feelings of India. He draws my attention to the Constituent Assembly of India Debates to state that even the Constituent Assembly through its various Constituents had reflected the intrinsic cultural link in between the citizens of India and the cow and its progeny. The following debates by the Constituent Assembly Members have been extensively relied upon by Shri Royekwar:

“Pandit Thakur Das Bhargava : ... This amendment is divided into three parts. Firstly, the agriculture should be improved On scientific and modern lines. Secondly, the cattle breed should be improved; and thirdly, the cow and other cattle should be protected from slaughter. To grow more food and to improve agriculture and the cattle breed are all inter-dependent and are two sides of the same coin. Today, we have to hang our head in shame, when we find that we have to import cereals from outside. I think our country is importing 46 million tons of cereals from outside. If we calculate the average of the last twelve years, namely, from 1935 to 1947, then it would be found that this country has produced 45 million tons of cereals every year. Therefore, it is certain that we are not only self-sufficient but can also export cereals from our country. If we utilize water properly, construct dams, and have proper change in the courses of rivers, use machines and tractors, make use of cropping and manuring, then surely the production will increase considerably. Besides all these, the best way of increasing the production is to improve the health of human beings and breed of cattle, whose milk and manure and labour are most essential for growing food. Thus the whole agricultural and food problem of this country is nothing but the problem of the improvement of cow and her breed. And therefore I would like to explain to you by quoting some figures, how far cattle-wealth has progressed and what is the position today.

In 1940, there were 11,56,00,960 oxen in India and in 1945 only 11,19,00,000 were left. That is to say, during these five years, there was a decrease of 37 lacs in the number of oxen. Similarly the number of buffaloes in 1940, was 3,28,91,300 and in 1945, this figure was reduced to 3,25,44,400. According to these figures, during these five years, their number was reduced by four lacs. Thus during these five years there was decrease of 41 lacs in the sum total of both the above figures taken together.

Besides this, if we see the figures of the slaughtered cattle in India we find that in 1944, 60,91,828 oxen were slaughtered, while in 1945 sixty five lacs were slaughtered i.e., four lakhs more. In the same year 7,27:189 buffaloes were slaughtered. I do not want to take much of your time. If you wish to see latest figures then I have got them upto 1945. You can see them. I have got figures for Bombay and Madras. A look at these figures will show that there has been no decrease in their slaughter, rather it is on the increase. Therefore, I want to submit before you that the slaughter of cattle should be banned here. Ours is an agricultural country and the cow is 'Kam-Dhenu' to us-fulfiller of all our wants. From both points of view, of agriculture and food, protection of the cow becomes necessary. Our ancient sages and Rishis, realising her importance, regarded her as very sacred. Here, Lord Krishna was born, who served cows so devotedly that to this day, in affection he is known as "Makhan Chor". I would not relate to you the story of Dalip, how that Raja staked his own life for his cow. But I would like to tell you that even during the Muslim rule, Babar, Humayun, Akbar, Jahangir and even in the reign of Aurangzeb, cow slaughter was not practised in India; not because Muslims regarded it to be bad but because, from the economic point of view, it was unprofitable. Similarly in every country, in China, cow-slaughter is a crime. It is banned in Afghanistan as well. A year ago, a similar law was passed in Burma, before that, under a certain law cattle only above fourteen years of age could be slaughtered. But eventually, the Burma Government realised that this partial ban on slaughter was not effective. On the pretext of useless cattle many useful cattle are slaughtered. I have read in newspapers that the Pakistan Government has decided to stop the export of cattle from Western Pakistan, and they too have enforced a partial ban on slaughter of animals. In the present conditions in our country, cow-breeding is necessary, not for milk supply alone, but also for the purposes of draught and transport. It is no wonder that people worship cow in this land. But I do not appeal to you in the name of religion; I ask you to consider it in the light of economic requirements of the country. In this connection I would like to tell you the opinion of the greatest leader of our country the Father of the Nation on the subject. You know the ideas of revered Mahatmaji on this topic. He never wanted to put any compulsion on Muslims or non-Hindus. He said, "I hold that the question of cow-slaughter is of great moment-in certain respects of even greater moment-than that of Swaraj. Cow-slaughter and man-slaughter are, in my opinion, two sides of the same coin.

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Seth Govind Das : *The object of the amendment is, I hope, quite clear from its words. The amendment moved by Pandit Bhargava prohibits the slaughter of cow and other useful cattle but according to it unfit or useless cows may be slaughtered. But the object of my amendment is, as far as cows are concerned, to prohibit the slaughter of any cow, be it*

useful or useless and in my amendment word 'cow' includes bulls, bullocks and calves all that are born of cows. As Pandit Thakur Dass told you, I had submitted this earlier to be included in Fundamental Rights but I regret that it could not be so included. The reason given is that Fundamental Rights deal only with human beings and not animals. I had then stated that just as the practice of untouchability was going to be declared an offence so also we should declare the slaughter of cows to be an offence. But it was said that while untouchability directly affected human beings the slaughter of cows affected the life of animals only and that as the Fundamental Rights were for human beings this provision could not be included therein. Well, I did not protest against that view and thought it proper to include this provision in the Directive Principles. It will not be improper, Sir, if I mention here, that it is not for the first time that I am raising the question of cow protection. I have been a member of the Central Legislature for the last twenty-five years and I have always raised this question in the Assembly and in the Council of State. The protection of cow is a question of long standing in this country. Great importance has been attached to this question from the time of Lord Krishna. I belong to a family which worships Lord Krishna as "Ishtadev". I consider myself a religious minded person, and have no respect for those people of the present day society whose attitude towards religion and religious minded people is one of contempt. It is my firm belief that Dharma had never been uprooted from the world and nor can it be uprooted. There had been unbelievers like Charvaka in our country also but the creed of Charvaka could never flourish in this his country. Now-a-days the Communist leaders of the West also and I may name among them Karl Marx, Lenin, Stalin, declare religion "the opium of the People". Russia recognised neither religion nor God but we have seen that in the last war the Russian people offered prayers to God in Churches to grant them victory. Thus it is plain from the history of ancient times as also from that of God-denying Russia that religion could not be uprooted.

Moreover, cow protection is not only a matter of religion with us; it is also a cultural and economic question. Culture is a gift of History. India is an ancient country; consequently no new culture can be imposed on it. Whosoever attempts to do so is bound to fail; he can never succeed. Ours is a culture that has gradually developed with our long history. Swaraj will have no meaning for our people in the absence of a culture. Great important cultural issues for instance the question of the name of the country, question of National Language, question of National Script, question of the National Anthem and question of the prohibition of cow slaughter-are before this Assembly and unless the Constituent Assembly decides these questions according to the wishes of the people of the country, Swarajya will have no meaning to the common people of our country. I would like to submit, Sir, that a referendum be taken on these issues and the opinion of the people be ascertained. Again, cow protection is also a matter of great economic importance for us. Pandit Thakur Dass Bhargava has shown to you by quoting statistics how the cattle wealth of the country is diminishing. This country is predominantly agricultural in character. I would give some figures here regarding the position of our cattle wealth. In 1935 there were one hundred nineteen million and four hundred ninety one thousand (11,94,91,000) heads of cattle. In 1940 their number came down to one hundred fifteen million and six hundred ten thousand, and in 1945 it further came down to one hundred eleven million and 9 hundred thousand. While on one side our population is increasing

our cattle wealth is decreasing. Our Government is carrying on a Grow More Food Campaign. Millions of rupees are being spent on this campaign. This campaign cannot succeed so long as we do not preserve the cows. Pandit Thakur Dass has given us some figures to show the number of cows slaughtered in our country. I would like to quote here some figures from the Hide and Skin Report of the Government of India. Fifty two lakhs of cows and thirteen lakhs of buffaloes are slaughtered every year in this country. It shows in what amazing numbers cattle are slaughtered here. Thirty six crores acres of land are under cultivation here. These figures also include the land under cultivation in Pakistan. I have to give these figures because we have no figure of the land under cultivation in India since the secession of Pakistan from our country. We have six crores bullocks for the cultivation of the land. A scientific estimate would show that we need another one and a half crore of bullocks to keep this land under proper cultivation."

18. He argues that, however, even after extensive debates in the Constituent Assembly, the cow slaughter or the ban on cow slaughter could not find place in Part III of the Constitution of India and ultimately was included in the Directive Principles of State Policy in the form of Art. 48 of the Constitution of India which is quoted herein below:

"48. Organisation of agriculture and animal husbandry. - The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle."

19. He argues that in pursuance to the expression as contained in Art. 48, for the first time, U.P. Prevention of Cow Slaughter Act, 1995 was enacted and was subsequently amended in the year 2020 w.e.f. 11.06.2020. He further argues that in terms of the mandate of the Act, the intent of the State is clearly reflected in the form of the various statutory provisions, as have been extracted above. He further argues that a Pradhan who is an elected representative, has to be sensitive to the cultural and religious needs of the society and instead of taking care of the cow, he was planning to slaughter them and transport them without any license which act cannot be termed as an act with which the Gram Pradhan is entrusted in terms of the provisions of U.P. Panchayat Raj Act or in terms of the mandate of Part IX of the Constitution of India.

20. He further argues that the judgment of the Single Judge in the case of *Aijaz Ahmad (Supra)* placing reliance on the Full Bench judgment in

the case of ***Buddha Pitai (Supra)*** is misplaced as the Full Bench was in context of the Food Adulteration Act and the principles could not have been corroborated in relation to cow slaughter as has been done by the learned Single Judge. He further argues that even in the Full Bench, no ratio could be discerned and to that extent, reliance placed by learned Single Judge was not justified and requires reconsideration.

21. Learned AAG is not aware as to whether the judgment in the case of ***Aijaz Ahmad (Supra)*** was ever challenged by the State.

22. Learned AAG also places reliance on the following judgments to argue that the offence with which the petitioner has been alleged would involve an offence involving moral turpitude and thus, justifies the order impugned:

- i. *Sushil Kumar Singhal vs. The Regional Manager, Punjab National Bank; (2010) 8 SCC 573*
- ii. *Ashok Kumar Pandey vs. State of U.P. & Ors.; 2024:AHC:63916*
- iii. *Chitra Singh vs. Sarva U.P. Gramin Bank and Ors.; 2019 (3) ADJ 514*
- iv. *S.D. Nikam vs. Gokhale Education Society Educational Trust and Ors.; 2023:BHC-AS:35178-DB*
- v. *The State Bank of India & Ors. vs. P. Soupramaniane; AIR 2019 SC 2187*
- vi. *Pawan Kumar vs. State of Haryana and Ors.; AIR 1996 SC 3300*

23. All the above referred judgments are mostly relied upon by the petitioner's counsel also wherein the Supreme Court had the occasion to deal with the phrase 'moral turpitude'.

24. To appreciate the controversy that has been arisen in the present case in the context of the provisions contained in the U.P. Prevention of Cow Slaughter Act, it is essential to notice that Gram Panchayats were included in Part IX of the Constitution by virtue of the 73rd Amendment giving it a constitutional flavour, although, the elections are prescribed in

the U.P. Panchayat Raj Act and the elections are held in terms of the statutory provisions contained for electing the Gram Pradhan as prescribed in Chapter III-A of the U.P. Panchayat Raj Act. The term of the Pradhan in terms of the provisions is five years; as statutory right is conferred having constitutional flavour on the Gram Pradhan, the removal of the Gram Pradhan can happen only through an election petition or in terms of a prescription contained in Section 14 by the Gram Sabha or in terms of the prescriptions contained in Section 95(1)(g) read with the Rules framed thereunder which have been quoted herein above.

25. The provisions for removal of statutory authority having constitutional flavour is essentially an *expropriatory* action, denuding the Pradhan of his office which has been conferred upon him by Will of the people, thus, has to be strictly interpreted. In this backdrop, the provisions of Section 95(1)(g)(ii) & (iii) of U.P. Panchayat Raj Act have to be interpreted.

26. Section 95(1)(g) of the Act confers a discretionary power of removal on the State Government as it uses the word *may* and not *shall*, as per the argument of learned AAG an impression is given that mere accusation against a elected gram Pradhan of being involved in an offence involving moral turpitude is enough to exercise the power of removal under section 95(1)(g)(ii), which is also reflected in the impugned order. The said merits outright rejection as the exercise of power is discretionary and thus has to be exercised rationally and only in compelling circumstances justifying the said power.

27. Although the statutory provision of Section 95(1)(g)(ii) is silent and no rules have been framed either for manner of exercise of said power, accepting the contentions of learned AAG will lead to catastrophic results as mere accusations on the Gram Pradhan of an offence, would vest power in the hand of the executive to remove an elected representative which is not in furtherance of the scheme of the Constitution as well as the statutory enactment through which the Gram Pradhan is elected. On a

proper construction of the provisions of Section 95(1)(g) read with Clause (ii) & (iii) thereof, the only interpretation can be that the power of removal prescribed under Clause (ii) & (iii) may be exercised for removal of a Gram Pradhan subject to forming an opinion and application of mind as to (i) whether the act alleged against the Gram Pradhan which can possibly lead to a conviction is such that can shock the moral conscience of the society in general (ii) the act with which the Gram Pradhan is alleged is a base one and/or the same can be considered to be a depraved character and the person/Gram Pradhan because of the allegations levelled against him would be looked upon by the society as a depraved character. The said materials do not exist in the impugned order to form the said view.

28. It is reasonably well settled that moral turpitude, although not defined, has been interpreted by the Supreme Court in various judgments quoted herein above to hold that for an offence to be an offence involving moral turpitude, it is essential that the act should be such which is inherently 'base', 'vile', 'depraved' or having 'any connection showing depravity'.

29. In the present case, the allegations and the accusation against the petitioner are under Section 3/5A/8 of U.P. Prevention of Cow Slaughter Act read with Section 11 of Prevention of Cruelty to Animals Act, however, from the FIR, no material exists *prima-facie* to prosecute the petitioner under Section 3 as there is no allegation of slaughter of any cow; at worst, the allegations in the FIR, even if treated to be gospel truth, make allegations which are traceable to Section 5A of the U.P. Prevention of Cow Slaughter Act. Section 5A itself is a regulatory provision and does not prohibit the transport of cow etc., and can be done only if authorised by the officer concerned. At best, it will be an 'irregularity' and not an 'illegality' in the sense known to jurisprudence. In any case, an action which is regulated and not completely prohibited can in no manner be termed as an act involving depravity or vileness or inherently base so as to call the act an offence involving moral turpitude. Thus, *ex-facie* no

material exists so as to hold that the acts for which the petitioner is alleged, are either depraved or vile or inherently base keeping in view the present morality of the society so as to invoke the extreme punishment of removal as a Gram Pradhan.

30. With regard to provisions contained in Section 95(1)(g)(iii), there is no allegation that the petitioner has abused his position or has persistently failed to perform the duties or his continuance, as such, is not desirable in public interest; no material exists either in the impugned order or otherwise enabling the State to form an opinion that it is not desirable in public interest that the petitioner continues as a Gram Pradhan. In the absence of any material, the invocation of Clause (iii) of Section 95(1)(g) also cannot be held to be justified.

31. In totality, considering the allegations in the FIR, considering the nature of the office of the Gram Pradhan which is essentially statutory having constitutional flavour and there being no existing substantial material to hold that the allegations against the petitioner amount to reflection of vileness, depravity or baseness, the exercise of powers of removal through the impugned order cannot be sustained, as such, the impugned order dated 28.06.2025 is quashed.

32. Petitioner would be permitted to discharge his duties as a Gram Pradhan in terms of his election for the period for which he has been elected.

33. Present petition stands ***allowed*** in above terms.

Date: 25.07.2025
Nishant

[Pankaj Bhatia, J.]