



2026:AHC-LKO:43505-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 282 of 2026

Harikesh Verma

.....Appellant(s)

Versus

State Of U.P. Thru. Prin. Secy. Panchayati Raj
Deptt. Lko. And 5 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Chanchal Kumar Pandey, Parijat Mishra Belaure
Counsel for Respondent(s)	:	C.S.C.

A.F.R.

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE MANJIVE SHUKLA, J.

1. This Special Appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules 1952 has been filed challenging an interim order dated 17.06.2026 passed in Writ-C No. 6350/2026, by which while granting interim relief till the next date of listing and staying recovery of Rs. 4,38,104.00 in pursuance to the impugned order dated 16.01.2026, it has been further provided that the petitioner will deposit Rs. 2 lacs, within a period of 15 days.

2. Heard Sri Chanchal Kumar Pandey, Advocate, assisted by Sri Parijat Mishra Belaure, for the appellant, and Sri Badrish Tripathi, learned Addl. C.S.C. for the State.

3. The contention of the learned counsel for the appellant is that the appellant-Gram Pradhan demitted office in March 2026, therefore, in view of Rule 256, Read with Rule 257 of the U.P. Panchayat Raj Rules 1947 such surcharge cannot be imposed after a period of 3 years from demitting office. In this regard reliance has been placed upon a Single Judge Bench decision dated 12.09.2024 passed in Writ-C No. 1000219 of 2006, Ram Lakhan Harshit v. D.M. Lucknow and ors., however, we find that the provision of surcharge is contained in Section 27 of the U.P. Panchayat Raj Act, 1947, which is the substantive provision and it reads as under:

*misapplication is direct consequence of his neglect or misconduct while he was such Pradhan or Member] [Substituted 'and every Sarpanch, Sahayak Sarpanch or Panch of a Nyaya Panchayat shall be liable to surcharge for the loss, waste or misapplication of money or property belonging to the Gram Panchayat or Nyaya Panchayat as the case may be, if such loss, waste or misapplication is direct consequence of his neglect or misconduct while he was such Pradhan, Member, Sarpanch, Sahayak Sarpanch or Panch:' by U.P. Act No. 6 of 2017.] Provided that **such liability shall cease to exist after the expiration of ten years from the occurrence of such loss, waste or misapplication, or five years from the date on which the person liable ceases to hold his office, whichever is later.**(2) The prescribed authority shall fix the amount of the surcharge according to the procedure that may be prescribed and shall certify the amount to the collector who shall, on being satisfied that the amount is due, realise it as if it were an arrear of land revenue.(3) Any person aggrieved by the order of the prescribed authority fixing the amount of surcharge may, within thirty days of such order, appeal against the order of the State Government or such other appellate authority as may be prescribed.(4) Where no proceeding for fixation and realisation of surcharge as specified in sub-section (2) is taken the State Government may institute suit for compensation for such loss, waste or misapplication, against the person liable for the same."*

4. Under the proviso to Section 27, such liability to surcharge for loss, waste or misapplication of money or property belonging to the Gram Panchayat, as is referred in sub-Section (1) of Section 27, shall cease to exist after the expiration of a period of ten years from the occurrence of such loss, waste or misapplication, or five years from the date on which the person liable ceases to hold his office, whichever is later.

5. Of course, the provision in the 3rd proviso to Rule 257(2) is different and, according to it, no Pradhan, Up-Pradhan, Member, Officer or servant, shall be liable for any loss, waste or misuse after the expiry of four years from the occurrence of such loss, waste or misuse or after expiry of three years from the date of his ceasing to be Pradhan, Up-Pradhan, Member, Officer or Servant of the Gram Panchayat, whichever is later, however, the law is settled that a Rule cannot supplant, supersede or be in conflict with the Act under which it has been framed. Apparently, the 3rd proviso to Rule 257 or the U.P. Panchayat Raj Rules 1947 is in conflict with the proviso to Section 27, which is the substantive provision governing the subject.

6. We have gone through the judgment of learned Single Judge passed in Writ-C No. 1000219 of 2006, Ram Lakhan Harshit v. D.M. Lucknow &

appellant. The appeal is **dismissed**.

8. Sri Badrish Tripathi shall communicate our judgment to the A.C.S./Principal Secretary, Panchayat Raj, as the Rules cannot be in conflict with the substantive provision contained in the Act.

(Manjive Shukla,J.) (Rajan Roy,J.)

July 6, 2026
A.Nigam