Even in this Court, no formal defect within the contemplation of law has been pointed out.

The argument that it is a hard case is equally unavailing. Not only do hard cases make bad law, but in the present case, I have not been persuaded to hold that the present is a hard case justifying this Court to decline interference with an order which is obviously and clearly tainted with illegality and material irregularity.

I may also point out to the learned Additional Subordinate Judge that even if this had been a fit case to allow withdrawal with permission to institute a fresh suit, he should have considered the question of imposing terms on the plaintiffs, at least by awarding costs in favour of the defendants. Order XXIII Rule 1(2) in express terms speaks of the Court granting the requisite permission on such terms as it thinks fit. The order of the Court below suggests that the learned Additional Subordinate Judge did not feel himself concerned with the question of terms. It may be mentioned that in the defendant's reply it was expressly pleaded that the application for withdrawal had been filed to avoid the dismissal of the suit for non-production of evidence. This plea should have required the learned Additional Subordinate Judge to pay more attention to the circumstances of the case than has actually been done. It must never be forgotten that withdrawal of a suit with permission to institute a fresh one under Order XXIII, Rule 1, is a serious matter demanding exercise of judicial discretion in the light of all the attending circumstances and it has not to be dealt with casually treating it as a purely formal and harmless order.

For the foregoing reasons, I allow this revision, set aside the impugned order and remit the case back to the Court below for proceeding with the suit in accordance with law in the light of the observations made above. There would be no order as to costs in this Court.

R.S.

CIVIL MISCELLANEOUS

Before R. S. Narula, J.

CHUNI LAL,—*Petitioner.*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ No. 513 of 1966.

September 2, 1966.

Punjab Gram Panchayat Act (IV of 1953)—S. 102(2)(*e*)—*Whether* ultra vires *Article* 14 *of the Constitution—Opportunity to rebut allegations in the show-cause*

notice and to substantiate his defence—Whether necessary to be afforded to the Sarpanch.

Held, that in section 102(2)(e) of the Punjab Gram Panchayat Act, there is no deeming provision. In order to base action under that provision, the Government or its duly authorised delegate has to be of the opinion that the continuation in office of the Sarpanch in question has actually and in fact become "undesirable in the interest of the Public". The expression "interest of the public", in spite of its wide amplitude, is not an indefinite or vague guide to the ground on which action can be taken under clause (e) of sub-section (2) of section 102 of the Act. Sufficient guidance is available to the Government for coming to an objective decision about the Panch in question having or not having become undesirable in the interest of the public from clauses (a) to (d) read with clause (e) of sub-section (2) of section 102. It is not open to the Government to merely repeat the words of the provision and say that it is not necessary to reveal any material on the basis of which the Government is of this opinion in question and merely to take over for such action on the subjective opinion of the Government or of any of its officers. Clause (e) of sub-section (2) of section 102 of the Act is, therefore, not *ultra vires* Article 14 of the Constitution nor is it violative of the rule of law.

Held, that in view of the fact that the petitioner had submitted a written reply to the show-cause notice not only denying the various allegations contained therein but putting up his own version of the factual aspect of the case, it was the duty of the appropriate authorities to afford the petitioner an opportunity not only to rebut the allegations in the show-cause notice but also to substantiate the allegations made in his reply thereto which, if proved, would completely belie the allegations made against him. The order is liable to be quashed as it was passed without conforming to judicial norms and without sticking to the principles of natural justice.

Petition under Articles 226 and 227 of the Constitution of India praying that a writ of Certiorari, Mandamus or any other appropriate writ, order or direction be issued quashing the order dated 14th February, 1966 passed by respondent No. 2.

SURINDER SARUP AND SUBHASH CHAUDHRI, FOR CH. RAM SARUP, ADVOCATES, for the Petitioner.

PARTAP SINGH, ADVOCATE, FOR THE ADVOCATE-GENERAL, for the Respondents.

NARULA, J.—Chuni Lal petitioner is a member of the Panchayat Samiti. Rewari Khol Block and was Sarpanch of the Gram Panchayat Siha, Tehsil Rewari, District Gurgaon. When two Panches had to be elected as members of the Zila Parishad in February, 1965 the petitioner is alleged to have been called by the then Sub-Divisional Officer (Civil), Rewari, and is alleged to have been not only persuaded but also coerced to withdraw from the candidature to the membership of the Zila Parishad in favour of Hari Singh (respondent No. 5). According to the petitioner the Sub-Divisional Officer (Civil) was a scheduled caste man and was, therefore, desiring Hari Singh, who is a Harijan. to be elected. The petitioner declined to

withdraw and fought at the election, which was held on the 16th February, 1965. During the polling, Chuni Lal, petitioner and two others submitted a written complaint to respondent No. 4, who happened to be the returning officer, alleging that certain voters had cast two votes each in favour of one and the same candidate and praying that such ballot papers, which showed the casting of two votes by the same elector in favour of one candidate, should be rejected. Annexure 'A' is a copy of the complaint. It is admitted that the returning officer did not scrutinise ballot papers in question and did not decide whether they were valid or not. The petitioner's case is that at that time the returning officer merely endorsed on the original of Annexure 'A' the words "received one copy" and signed and dated the above-mentioned endorsement. The endorsement, which is now admittedly present on the original of Annexure 'A' above the signatures of Sub-Divisional Officer, Rewari, dated the 16th February, 1965, reads "received one copy after the declaration of the result". The case of the respondent is that the application was in fact given after the result of the contest had been declared. Though this allegation of the respondent does not appear to be correct from the circumstances of the case, I am not basing my judgment on the allegation of petitioner to the countrary. The fact remains that on the same day the petitioner sent a telegram to the Deputy Commissioner, Gurgaon, reading as follows:—

> "Wrong declaration Zila Parishad members. Khol Blok *mala fide* action returning officer. Request immediate inquiry".

In reply to the telegram letter, dated February 29, 1965, (Annexure B) was sent by the Deputy Commissioner to the petitioner informing him that no action was possible on the telegram and advising him to seek his remedy in accordance with law. The petitioner thereupon filed an election petition before the Deputy Commissioner, Gurgaon, on February 24, 1965. This action of the petitioner is claimed to have upset respondent No. 4, who is alleged to have acted in concert with Hari Singh (respondent No. 5) to bring the petitioner to trouble. Be that as it may, the election petition filed by the petitioner was accepted by the Deputy Commissioner, Gurgaon, by her order dated October 20, 1965 (Annexure C), wherein it was held that in fact nine ballot papers cast in favour of Hari Singh had been marked by the voters twice and the said voters had, therefore, cast both the votes of the double member constituency in favour of one and the same candidate which was not in accordance with law. The allegation made by the petitioner in the election

petition having been found to be correct, the learned Deputy Commissioner held the election of Hari Singh void and set it aside.

On September 28, 1965, a notice under section 102(2) (e) of the Punjab Gram Panchayat Act No. 4 of 1953 (hereinafter called the Act) was served upon the petitioner by the Director of Panchayats, Punjab, informing him that "during the course of an enquiry conducted by the Deputy Secretary, Development (I), dated 21st August, 1965," certain charges stood *prime facie* proved against the petitioner and calling upon the petitioner to show cause within 15 days of the issue of the notice why he should not be removed from the office of Sarpanch. The notice is Annexure D. The main charges related to the allegation of the petitioner not having shown the Panchayat record to certain officers and about his not having utilised certain grants and not having summoned the meetings of the Panchayat for a period of 1½ years. The petitioner submitted a written reply (Annexure E) to the show-cause notice. In his reply he stated that one of the officers concerned had never asked the petitioner to produce the record: that when another officer went to the village, the petitioner had gone to Chandigarh; that the petitioner had intended to hand over the record to the Joint Secretary, Development, on September 21, 1965, and that the petitioner had in fact handed over the entire record to the authorities on September 26, 1965. The petitioner emphasised in his reply to the show cause notice that he had spent Rs. 150 from his pocket in travelling from Rewari to Chandigarh and back thrice in order to hand over the records. Regarding his not spending the amount of grants placed at his disposal, the petitioner gave a lengthy explanation. About the third charge of not holdings the meetings of the Panchayat for one and a half years the petitioner stated in his written reply that he had been summoning Panchayat meetings regularly and that this could be verified from the proceedings books.

Admittedly no enquiry was held after the receipt of the petitioner's reply. The petitioners was not given any opportunity to substitute the allegations made by him in his above-mentioned representation. No witness was examined in presence of the petitioner who might have given evidence against the allegations made by the petitioner. Straightaway an order dated February 14, 1966 (Annexure G), was served on the petitioner. The order was issued by the Director of Panchayats, Punjab. Its opening part reads as follows:—

"Whereas I am satisfied after enquiry that Shri Chuni Lal, Sarpanch of Gram Panchayat Siha, Tehsil Rewari, District

Gurgaon, is guilty of the following charges in the discharge of his duties as Sarpanch:—

And after the above-mentioned passage are repeated verbatim the three charges which were mentioned in the charge-sheet (Annexure D). After a copy of those charges from Annexure D occurs the following paragraphs:—

"Hence his continuation as Sarpanch of the aforesaid Panchayat is undesirable in the interest of the public. Therefore, in exercise of the powers contained in section 102(2) of the Punjab Gram Panchayat Act, 1952, as amended up-to-date * * * *, I, Mohinder Singh Bedi, Director of Panchayats, Punjab, hereby remove Shri Chuni Lal * * * *".

It is the above-mentioned order of the Director of Panchayats dated February 14, 1966 (Annexure G), which has been impugned in this case by the petitioner. When the writ petition was filed on March 14, 1966, a prayer for a stay of operation of the impugned order was made. The Motion Bench while admitting the petition on March 16, 1966, issued notice of the stay application returnable for March 23, 1966. On that date the stay matter could not be decided as service had not been effected on all the respondents. On the adjourned hearing, that is, on April 7, 1966, Pandit J., refused to grant stay of operation of the impugned order but directed that the main case should be heard on May 9, 1966. The date was fixed in view of an express undertaking given by the State counsel to the effect that he would file the written statement by April 29, 1966. The written statement was, however, not filed within the time allowed by the Court. The written statement of Kanwar Mohinder Singh Bedi, Joint Director of Panchayats, Punjab, dated nil, which is neither in the proper form of an affidavit nor has it been sworn before any one or even attested by any authority, appears to have been filed in the registry of the Court on May 4, 1966. The written statement is accompanied by a purported affidavit of Shri Bedi, which has not been sworn before any one. It purports to have been attested by a Judicial Magistrate. I have repeatedly pointed out that attestation of signatures does not amount to an affidavit of the signatory being sworn before a Judicial Officer. The written statement was filed with a covering letter of the Personal Assistant to the Senior Deputy Advocate-General, Punjab, addressed to the

Deputy Registrar, Punjab High Court, in which the case number was mentioned to be C.W. 573 of 1966. Office took time to check up and found that C.W. 573 of 1966, was not the case to which the written statement could relate. The papers were, therefore, returned with a covering letter of the Superintendent Judicial, dated 5th May, 1966, which appears to have been received in the office of the Advocate General, Punjab, on 25th July, 1966. The office of the Advocate General refiled the papers on 29th July, 1966, after correcting the error in the case number. According to law this written statement has to be ignored; firstly because it was not filed within the time allowed by Court and secondly because it does not conform to the requirements of rule 6 of Chapter 4-F (b) of High Courts Rules and Orders Volume V. In spite of these facts I have chosen to take the written statement in this case into consideration in the interest of justice without in any manner intending to make it a precedent for the future. None of the other respondents filed any return to the rule issued in this case. The State of Punjab alone is represented by counsel before me. None of the other respondents has come forward to controvert any of the allegations made in the writ-petition. The allegations in the writ-petition against the other respondents have, therefore, to be deemed to be correct for the purposes of this case. In the written statement of the Joint Director of Panchayats, filed on behalf of the State of Punjab, it has been stated that "full opportunity was given to the Sanpanch (the petitioner) to appear before the enquiry officer, but he wilfully evaded to attend the enquiry". It has further been added that a notice was issued to the petitioner on 6th August, 1965, about the date of the enquiry. The Joint Director has then added that "the petitioner has also admitted in para 12 of the petition that a show-cause notice was issued to him". I have read paragraph 12 of the writ petition carefully and have not been able to find any allegation therein to the effect that a show-cause notice had, in fact, been issued to the petitioner.

On 25th May, 1966, the petitioner submitted Civil Miscellaneous No. 1667 of 1966 for permission to implead the Deputy Secretary, Punjab Government in the Development Department as an additional respondent to the case. The application was allowed by this Court (Pandit, J.) subject to just exceptions on May 27, 1966. During vacation the petitioner filed Civil Miscellaneous No. 2453 of 1966 for stay of operation of the impugned order but Kaushal V. J., declined to grant stay and merely directed that the writ petition may

be fixed for hearing on the opening day of the court after the vacation. When this petition came up for hearing before me in pursuance of the abovesaid order of the vacation Judge on July 11, 1966, it was represented by Shri Partap Singh, learned counsel for respondent No. 1, that, in fact, a notice had been issued to the petitioner on August 6, 1965, by the Block and Development Officer, on which there was an endorsement by the chowkidar to the effect that he had pasted the notice on the door of the residential house of the petitioner. Admittedly the Block and Development Officer had never conducted any enquiry into the matter in dispute and the only enquiry alleged to have been held was by the Deputy Secretary to the Government in the Development Department. The Deputy Secretary had been added as a respondent but had not chosen to file any reply to the writ petition. In the interest of justice, therefore, I adjourned the case with a view to obtain an affidavit of respondent No. 6 (Deputy Secretary, Development) particularly requiring him to state if he had passed any specific order for the issue of notice of the enquiry to the petitioner, whether any report had been submitted to him about the petitioner having evaded or declined to accept service of the notice and whether the Deputy Secretary passed any order specifying the manner of service of the notice on the petitioner. In pursuance of that order an affidavit, dated August 8, 1966, of Shri D. S. Chaudhry, Deputy Secretary, Development and Panchayat Department, Punjab, has been filed in this case. The affidavit does not deal with the writ petition and does not even purport to be a reply to the same. It appears to have been prepared by respondent No. 6 only on the three points referred to in my order, dated July 11, 1966. It would be appropriate to quote the three questions and their respective answer of the Deputy Secretary verbatim.

Q. Whether he passed any specific order for issue of notice of the enquiry by him to the petitioner;	A. Para one is admitted.
*2. Whether any report was submitted to him about the petitioner having evaded or declined to accept service of the notice sent to him;	A. In regard to part 2, it is stated that it came to my notice during evidence that the Sarpanch had slipped away on coming to know of my visit. However, the notice was affixed at his residence and also service was affected on his major son.

Q. 3. Whether the Deputy Secretary passed any orders specifying the manner of service of the notice on the petitioner or any order directing service of the notice on the petitioner by affixation.

A. In regard to para 3, it is stated that no manner of service of the notice was specified by me. The Block Development and Panchayat Officer was directed,—*vide* endorsement No. Steno-DSDI-65/11122, dated 4th August, 1965, that the record of Siha Panchayat should be taken into possession if not already done and that the parties concerned including the Sarpanch should be asked to be present at the time of enquiry. The mode of service was left to the Block Development and Panchayat Officer who personally visited the village Siha to inform the Sarpanch of the enquiry. Since the Block Development and Panchayat Officer had already effected substituted service by informing the major son of the petitioner and also by affixation of a notice at his residence, there was no question of my passing orders for substituted service when the fact of evasion of service by the petitioner came to my notice through the statement of the Chowkidar through whom the Block Development and Panchayat Officer had tried to serve the petioner.

Mr. Surinder Sarup, learned counsel for the petitioner, has urged only three points in support of the writ petition. He has firstly contended that in passing the *quasi-judicial* order purporting to remove the petitioner from the office of the Sarpanch, the Punjab

Government has not conformed to the judicial norms and has violated the principles of natural justice by passing such a drastic order without giving any notice to the petitioner and, in any case, without affording him an adequate opportunity to rebut the allegations against him and to substantiate his reply to the show-cause notice. It is next contended by him that the impugned order is vitiated by the malice of respondents Nos. 4 and 5 and is, therefore, liable to be struck down on that short ground. It has been lastly urged that clause (e) of sub-section (2) of section 102 of the Act under which the order in question purports to have been passed is *ultra vires* Article 14 of the Constitution in as much as it confers unfettered and unguided discretion on the executive authority to remove any Sarpanch on the mere subjective determination of any officer of the Government to whom power in question might have been delegated.

On the material placed before me it does not appear to be either possible or proper to return a verdict of malice against any of the respondents. I do not, therefore, propose to go into the second ground of attack levelled by the petitioner in support of his petition in this case. Nor is there any evidence to show that respondents Nos. 4 and 5 had any hand in the passing of the impugned order.

For deciding the last argument of the learned counsel it would be appropriate to notice the provisions of section 102 (2) (e) of the Act, which are in the following terms —

"102. (1) * * * *

(2) Government may, after such enquiry as it may deem fit, remove any Panch:—

(a) * * * *

(b) * * * *

(c) * * * *

(d) * * * *

(e) whose continuance in office is in the opinion of Government or of the office to whom Government has delegated its powers of removal; undesirable in the interests of the public."

In support of the challenge to the *vires* of the relevant statutory provision. Mr. Surinder Sarup has relied on the following observations of Mudholkar, J. relating to the *vires* of section 14 of the Punjab Municipalities Act in *Ram Dial and others* v. *The State of Punjab* (1).

> "It would be clear from a perusal of the above provision that powers conferred by section 14 can be exercised by the State Government (i) for any reason which it may deem fit to effect the public interest or (ii) at the request of the majority of the electors. We are not concerned in this case with the second circumstance. ***The expression 'public interest' is of wide import and what would be a matter which is in the public interest would necessarily depend upon the time and place and circumstances with reference to which the consideration of the question arises. But it is not a vague or indefinite ground, though the Act does not define what matters would be regarded as being in the public interest. It would seem that all grounds set out in section 16 which confers upon the State Government the power to remove any member of a Committee and sets out a number of grounds upon which this could be done, would be in the public interesct. Section 14, however, apart from the fact that the power it confers upon the State Government is not limited to matters set out under section 16, confers upon the Government the power to determine not merely what is in the public interest but also what for any reason which it may deem to affect the public interest'. This would suggest that the power so conferred would extend to matters which may not be in the public interest. For, that would be the effect of introducing the fiction created by the words 'for any reason which it may deem'. There is no guidance in the Act for determining what matters, though not in public interest, may yet be capable of being deemed to be in the public interest by the State Government. In the circumstances it must be held that the power which conferred upon the State Government being unguided is unconstitutional. For this reason, I hold that section 14 in so far as it confers powers on the State Government to require a seat of a member of a committee to be vacated for any reason which it may

(1) A.I.R. 1965 S.C. 1518.

deem to affect public interest is violative of Article 14 of the Constitution and, therefore, unconstitutional. In the result each of the appeals is allowed with costs and I accordingly do so".

In the above-quoted passage Mudholkar, J., (as he then was) held that the expression 'public interest' was not at all of vague or indefinite connotation in spite of the fact that the Act had not defined what matters would be regarded as being in the public interest. The learned Judge further held that section 14 of the Punjab Municipalities Act conferred upon the Government the power to determine not merely what was in the public interest but also what "may be deemed to affect the public interest". It was the deeming part of the provision which was held to suggest that the power was conferred to extend to matters which may not be in the public interest, because that would be the effect of introducing the fiction created by the words "for any reason which it may deem". Since it was found that there was no guidance in the Punjab Municipalities Act for determining what matters, though not in public interest, may yet be capable of being deemed to be in the public interest by the State Government, the provision was struck down. In section 102 (2) (e) of the Act, there is no deeming provision. In order to base action under that provision the Government or its duly authorised delegate has to be of the opinion that the continuation in office of the Sarpanch in question has actually and in fact become "undesirable in the interest of the public". The Supreme Court has held that the expression "interest of the public" is in spite of its wide amplitude not an indefinite or vague guide to the ground on which action can be taken under a provision containing such an expression. The only other attack levelled against the *vires* of the provision in question by Mr. Surinder Sarup is that the decision which drastically affects a public office of a citizen has been left to the subjective opinion of the Government or its officers and there are no criteria contained in the relevant clause on the basis of which it could be held that the Government must come to an objective decision on the point. Reading clause (e) along with clauses (a) to (d), I am inclined to think that sufficient guidance is available to the Government for coming to an objective decision about the Panch in question having or not having become undesirable in the interest of the public. I do not think it to be open to the Government to merely repeat the words of the provision and say that it is not necessary to reveal any material on the basis of which the Government is of the opinion in question and merely to take cover for such action on the subjective

opinion of the Government or of any of its officers. On the arguments advanced before me, I am, therefore, not able to hold that clause (e) of sub-section (2) of section 102 is *ultra vires* Article 14 of the Constitution or is violative of the rule of law.

There is, however, great force in the main contention of the counsel for the petitioner about the actual violation of the principles of natural justice in this case. Admittedly, the petitioner was not present before the Development Secretary when he held the alleged enquiry. In the show-cause notice (Annexure D), the petitioner was told that during the course of enquiry conducted by the Deputy Secretary on August 21, 1965, certain charges had stood *prime facie* proved against him. Admittedly, the alleged notice, dated August 6, 1965, was not for any hearing or enquiry proposed to be held on the 21st August, in that year. Shri Partap Singh learned counsel for respondent No. 1, has carefully scanned through the entire relavant record which had been handed over to him by the Government and has categorically stated that there is no record of any proceeding or enquiry or order of the Deputy Secretary, Development, dated August 21, 1965. In this view of the matter, the alleged notice for hearing on August 10, 1965, really loses at significance. But even if the show-cause notice had been based on the alleged enquiry held on 10th August,1965, I would have held that no proper notice had been served on the petitioner for that enquiry. The Deputy Secretary has stated in his affidavit, dated August 8, 1966, that it came to his notice "during evidence that the Sarpanch had slipped away on coming to know of" his visit. He has not taken pains to inform the Court of the date of the visit in question nor of the source which brought to his notice that the Sarpanch had really come and slipped away. It is obvious from the language of paragraph 2 of his affidavit (quoted in an earlier part of the judgment) that the alleged slipping away of the Sarpanch was prior to the holding of the alleged enquiry by the Deputy Secretary at the place in question, as it is said that the petitioner had slipped away "on coming to know of" the Deputy Secretary's visit. It is admitted by him that he did not prescribe any particular manner of service of the notice for the 10th August, on the petitioner. In the nature of things, therefore, it has to be presumed that the notice had at least in the first instance to be attempted to be served personally on the petitioner either through a messenger or by registered post. The alleged report of the Chowkidar on the notice shown to me does not even suggest that he tried to effect personal service of the notice on

the petitioner or that the petitioner evaded or refused to accept service. If the report is to be believed, all that it means is that the Chowkidar went straight to the house of the petitioner at some hour, which is not disclosed, on the 7th August, 1965, and pasted a copy of the notice on the outer door of his house. There are no attesting witnesses on the endorsement. The notice is in the form of a letter and does not even show that it was really accompanied by a copy or not. The Deputy Secretary has further stated that he had asked the Block Development and Panchayat Officer to direct the Sarpanch to be present at the time of the enquiry and that he had left the mode of the service of notice to be determined by the B.D.O. It is added by the Deputy Secretary that the B.D.O. "personally visited village Siha to inform the Sarpanch of the enquiry". No affidavit of the B.D.O. has been produced to show that he personally informed the petitioner. Nor has any such point been taken in the written statement of the Punjab State. The allegation in the Deputy Secretary's affidavit to the effect that the Block Development and Panchayat Officer "had already effected substituted service by informing the major son of the petitioner" is not supported either by the report on the origional notice or by the return made to the rule by the State of Punjab. In this state of affairs, I would have held, if it had become necessary to do so, that no proper service of the alleged notice, dated August 6, 1965, had ever been effected on the petitioner. There is still another way of looking at the matter. Suppose, the notice had been served upon the petitioner and thereafter the show-cause notice (Annexure D) was issued to him and the petitioner had, as he admittedly did in the instant case, submitted a written reply (Annexure E) not only denying the various allegations in the show-cause notice but putting up his own version of the factual aspect of the case, it was the duty of the appropriate authorities to afford the petitioner an opportunity not only to rebut the allegations in the show-cause notice but also to substantiate the allegations made in his reply thereto, which, if proved, would completely belie the allegations made against him. From whatever angle, therefore, the case is looked at, the Government appears to have come to a hasty decision against the petitioner for reasons best known to its officers, without conforming to judicial norms and without sticking to the principles of natural justice.

A perusal of the impugned order (Annexure G) shows that it purports to have been based upon an alleged enquiry. The order has been passed by the Director of Panchayats, Punjab, to whom, it

is presumed, powers under section 102 of the Act have been delegated by the State Government. Admittedly the Director of Panchayats did not hold any enquiry. The alleged *ex parte* enquiry is stated to have been held on the 10th of August, 1965, though the show-cause notice (Annexure D) was issued to the petitioner on the basis of a non-existent enquiry of the 21st of August. Beyond repeating the charges verbatim the impugned order does not disclose the nature of the enquiry nor contains any information about the person who held the enquiry or the time when it was held. It does not contain even a mention of any evidence on the basis of which the Director of Panchayats was satisfied about the petitioner being guilty of the said charges. For instance, the third charge against the petitioner was that he had not summoned Panchayat meetings for 1½ years. Petitioner's reply was that a reference to the proceedings books of the Panchayat would show that he had been holding regular Panchayat meetings. A charge of this type would either be proved or disproved from a reference to the relevant proceedings books. The order does not show if any one ever looked up the proceedings books at all before he found the petitioner guilty even of that charge. In fact, the impugned order does not disclose that the Director of Panchayat was even shown the written explanation of the petitioner in reply to he shaw-cause notice. No reference is made to the same in the order. No detailed order or report of the fact-finding enquiry has been shown by the respondent to exist on the basis of which the formal impugned order (Annexure G) might have been drawn up. The order in question is in the nature of a formal cyclostyled document in which between the first and the last paragraph merely charges have to be copied. This is hardly a satisfactory state of affairs in relation to a serious matter like this involving the rights of a citizen to a public office.

This writ petition must, therefore, be allowed on that short ground.

I, accordingly, allow this petition and set aside the impugned order and all proceedings commencing with the notice of the 6th August, 1965, against the petitioner. The petitioner would be entitled to have his costs from respondent No. 1, who alone has contested this case. Counsel's fee Rs. 200.

R.S.