


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 8180/2025

Mohd. Yakub Malakan S/o Shri Khaju Khan

----Petitioner

Versus

State of Rajasthan & Anr.

----Respondents

For Petitioner(s) : Mr.Ashwinee Kumar Jaiman with
Mr.Moin Khan,
Mr.Ashish Kabra &
Mr.Keshav Parashar

For Respondent(s) : Mr.Gurucharan Singh Gill, AAG with
Mr.S.P.S. Rajawat, Asst.GC.

JUSTICE ANOOP KUMAR DHAND

Order

05/08/2025

1. Matter comes up on second stay application.
2. Learned counsel for the petitioner submits that the petitioner contested election for the post of Ward Member from Ward No.23, Municipal Board, Khandela, District Sikar and he was elected.
2. Counsel submits that on account of certain charges, a charge-sheet was served upon him and orders were passed to conduct judicial enquiry against him and pending enquiry, he has been placed under suspension vide order dated 16.04.2025. Counsel submits that till date, neither the enquiry has been completed nor the petitioner has been removed from the said post that he was holding, but in spite of above, the respondents have issued a press note on 30.07.2025 for conducting elections for Ward No.23, Municipal Board, Khandela, District Sikar and the date of election has been fixed for 21.08.2025. Counsel submits

that until and unless, the petitioner has been removed from the said post he is still occupying the said post as a suspended Member of the Board, hence, under these circumstances, the respondents cannot re-notify the by-election for the same ward.

3. Learned counsel for the respondents opposes the arguments, but he is not in a position to controvert the submissions made by the counsel for the petitioner.

4. Considering the arguments put forward by learned counsel for the petitioner and looking to the fact that the petitioner has simply been suspended from the said post of Ward No.23, Municipal Board, Khandela, District Sikar, till date, he has not been removed from the said post until and unless he has been removed from the said post, the respondents cannot conduct by-elections for the same ward, i.e., Ward No.23, Municipal Board, Khandela, District Sikar.

5. In view of the above, by-election of Ward No.23, Municipal Board, Khandela, District Sikar shall remain stayed till disposal of this writ petition.

6. List the matter on 20.08.2025.

7. In the meantime, the respondents may file reply to the writ petition.

(ANOOP KUMAR DHAND),J