
(2013) 02 AHC CK 0022
In the Allahabad High Court
Case No : W.P. No. 1078 of 1994

Ahmad Hasan Khan

APPELLANT

Vs

Chief Development Officer

RESPONDENT

Date of Decision : 21-02-2013

Acts Referred:

Citation : (2014) 122 RD 66

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sudhir Agarwal, J.—Heard Sri Aftab Ahmad, Advocate, holding brief of Sri M.A. Siddiqui, learned Counsel for the petitioner. The writ petition is directed against order dated 15th April, 1994 passed by Chief Development Officer, Faizabad directing Block Development Officer, Mayabazar, Faizabad to enter the name of complainant Ahmad Hasan Khan, son of Shabir Husain Khan in the family register of house No. 93 and take action against concerned officer. It is contended that under U.P. Panchayat Raj (Maintenance of Family Registers) Rules, 1970 (hereinafter referred to as "Rules, 1970") Chief Development Officer has no power at all to pass any such order with respect to entries made in family register and therefore impugned order is patently illegal and without jurisdiction.

2. On a query made to learned Standing Counsel, he could not inform under which provision Chief Development Officer could have pass such an order and fairly stated that under Rules, 1970, no such power has been conferred upon Chief Development Officer. The procedure for inclusion of names in register is specified in Rules 6 and 6-A of Rules, 1970 which read as under:

6. Inclusion of names in the register.--Any person whose name is not included in the family register may apply to the Assistant Development Officer (Panchayat) for the inclusion of his name therein.

(2) The Assistant Development Officer (Panchayat) shall if, satisfied, after such

enquiry as he thinks fit that the applicant is entitled to be registered in the register direct that the name of the applicant be included therein and the Secretary of the Gram Sabha shall include the name accordingly.

6-A. Any person aggrieved by an order made under Rule 5 or Rule 6 may, within 30 days from the date of such order prefer an appeal to the Sub-Divisional Officer whose decision shall be final.

3. It is evident that thereunder no power has been conferred upon Chief Development Officer. The impugned order is, therefore, patently illegal and without jurisdiction.

4. The writ petition is allowed. The impugned order dated 15.4.1994 (Annexure 1 to the writ petition) is hereby quashed. The petitioner shall also be entitled to cost which I quantify to Rs. 20,000/- against respondent No. 1. At the first instance, the aforesaid cost shall be paid to the petitioner by State Government. However, it will be open to the State Government to recover the cost from the official concerned at the relevant point of time after making such an enquiry, as permissible in law.