
(2021) 11 UK CK 0109

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2757 Of 2017

Anand Prakash Arora & Others

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 22-11-2021

Acts Referred:

Cantonments Act, 2006 — Section 57, 340
Cantonments Act, 1924 — Section 181A

Citation : (2021) 11 UK CK 0109

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Ramji Srivastava, V.K. Kapruwan, B.S. Adhikari

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. By means of this writ petition, petitioners have sought the following reliefs:-

"a. To issue a writ, order or direction in the nature of Certiorari quashing the order dated 04.08.2015 (as contained in Annexure-1) passed by Respondent No. 3 and order dated 27.06.2017 (as contained in Annexure-2) passed by Respondent No. 4.

b. to issue a writ of mandamus directing respondents to consider the application No. 238 dated 23.07.2015 for sanctioning a plan for constructing a hostel."

2. Petitioners proposed to construct a hostel, therefore, they applied for sanction of house plan. Their application was rejected by Chief Executive Officer, Cantonment Board, Dehradun vide order dated 04.08.2015. Petitioners thereafter filed an Appeal under Section 340 of Cantonments Act, 2006; which was rejected by General Officer Commanding-in-Chief, Central Command, by a detailed order dated 27.06.2017. Feeling aggrieved, by these two orders, petitioners have approached this Court.

3. It is the contention of learned counsel for the petitioners that petitioners' application for sanction of house plan was rejected by placing reliance upon two notifications issued under Section 181-A of Cantonments Act, 1924, on 10.1.1942 & 26.06.1967.

4. Mr. Ramji Srivastava, learned counsel appearing for petitioner no. 3 submits that similar controversy has been decided by Co-ordinate Bench of this Court in Writ Petition (M/S) No. 67 of 2014, in which import of these notifications was considered & discussed. Thus according to him, the order passed by Chief Executive Officer, rejecting petitioners' application and also the order passed in appeal by General Officer Commanding-in-Chief, Central Command, are unsustainable in the eyes of law.

5. Per contra, Mr. B.S. Adhikari, learned counsel appearing for Cantonment Board has drawn attention of this Court to the provision contained in Section 57 of Cantonments Act, 2006, which is reproduced below:

"57. Power of Central Government to review.-The Central Government may, at any time, review any decision or order of the Board or the General Officer Commanding- in- Chief, the Command, and pass such orders thereon as it may deem fit:

Provided that where it is proposed to modify a decision or order of the Board reasonable opportunity shall be given to the Board to show cause why the decision or order in question should not be modified."

6. Based on Section 57 of the Act, learned counsel appearing for Cantonment board submits that since petitioners have a remedy of approaching the Central Government, seeking review of the order passed by General Officer Commanding-in-Chief, Central Command, therefore, the writ petition is liable to be dismissed on the ground of alternative remedy.

7. This Court finds substance in the contention raised on behalf of respondents.

8. Admittedly, petitioners have a statutory remedy available under Section 57 of the Cantonments Act, 2006, therefore, this Court is not inclined to entertain the Writ Petition at this stage.

9. Accordingly, the Writ Petition is disposed of with liberty to petitioners to approach the Central Government under Section 57 of the Cantonments Act, 2006.

10. This Court hopes and expects that if petitioners make application under Section 57 of Cantonments Act, 2006, the same shall be considered and decided by the Central Government expeditiously.