

(2015) 05 AHC CK 0079

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 17244 of 2015

Balram Pandey

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 12-05-2015

Acts Referred:

Citation : (2015) 5 ADJ 333 : (2015) 111 ALR 419 : (2015) 3 AWC 3205

Hon'ble Judges : Tarun Agarwala, J; Amar Singh Chauhan, J

Bench : Division Bench

Advocate : Rupak Chaubey, for the Appellant

Final Decision : Disposed off

Judgement

1. We have heard learned counsel for the parties. The petitioner has filed the present writ petition for quashing of the order dated 12.3.2015, passed by the Deputy Superintendent of Police, Pragyan, District Varanasi by which the security cover was withdrawn. It transpires that the petitioner received threat calls to pay a sum of Rs. 50 lacs. Since the petitioner refused to pay the extortion money three miscreants entered into the shop of the petitioner on 19.10.2010 and fired from their guns due to which the petitioner, his employee Ravi Seth and a customer received a gun shot injury. Thereafter the petitioner lodged First Information Report and after due inquiry one Manoj Kumar Yadav, Ajay Kumar Rawat, Ambar Goswami alias Sonu, Deepak Dubey and Rajesh Yadav were arrested and charge-sheet has also been filed. On account of the aforesaid incident, the petitioner was provided a security by the local administration in October 2010 which was subsequently extended upon payment of Rs. 8994/- towards personal expenses. By another order dated 30.6.2013, the matter was referred to the State Government for consideration of providing security by the State Level Committee. The State Level Committee granted security which continued till 7th January 2014. The petitioner thereafter filed Civil Misc. Writ Petition No. 15759 of 2014 which was disposed of by an order dated 13.3.2014 based on which a security gunner was provided by the District Level Committee.

2. Based on the Government Order dated 9.5.2014, the District Level Committee by an order of 30th July 2014 granted security for one month on 25% personal expenses and thereafter the same security was extended by the Regional Level Committee from 2nd February 2014 to February 2015 on 10% personal expenses. The Divisional Level Committee could not extend the security cover and, consequently, recommended the matter to the State Level Committee for the purpose of providing security to the petitioner. It is at this stage, the petitioner has filed the present writ petition after the security was withdrawn.

3. The initial counter-affidavit revealed that the matter was under consideration before the State Level Committee. A supplementary counter-affidavit has been filed today indicating that the State Level Committee has taken a decision on 6.5.2015 granting a security cover for three months on payment of 50% expenses.

4. Learned counsel for the petitioner contended that the charges demanded by the State is wholly arbitrary and is not based on any reasoning or guidelines. The supplementary counter-affidavit indicates that the State Level Committee looks into the status of the person and, according to his financial status, expenses are charged. The supplementary counter-affidavit further indicates that such decision taken by the State Level Committee or by the Divisional Level Committee is purely discretionary based on the Government Order dated 9.5.2014.

5. We have perused the Government Order dated 9.5.2014 and we find that Clause (4) and (5) relates to providing security on expenses but how the expenses are to be charged, has not been clarified nor any guidelines have been issued.

6. In the instant case, we find that initially 10% charges were demanded from the petitioner which was increased to 25% but pursuant to the Divisional Level Committee the security cover was extended up to 7.1.2015 on 10% expenses. The petitioner has categorically stated in paragraph 26 that security was provided for the month of December 2014 at 10% cost which is also admitted by the respondents in paragraph 14 of the counter-affidavit. What was the extenuating circumstances increasing the expenses from 10% to 25% within the period of two months, has not been indicated. The supplementary counter-affidavit indicates that this exercise is purely discretionary.

7. In our opinion, such discretionary exercise appears to be wholly arbitrary. We, consequently, modify the order of the State Level Committee dated 6.5.2015 holding that in the instant case the petitioner would be provided a security cover on 10% expenses for a period of three months. Before the expiry of three months, the State Level Committee will review the matter in the case of the petitioner.

8. We also direct the Principal Secretary, Home, Government of Uttar Pradesh, Lucknow to frame guidelines within six weeks from today on the issue of charging expenses from those persons who are being provided security cover.

9. The Registry is directed to send the certified copy of this order to the Principal Secretary, Home, Government of Uttar Pradesh, Lucknow within a week from today for necessary information and compliance of the order. Subject to the aforesaid observations, the writ petition is disposed of.