
(2011) 04 UK CK 0040

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1781 of 2005

Bhagwat Singh Rawat

APPELLANT

Vs

State of Uttaranchal and Another

RESPONDENT

Date of Decision : 19-04-2011

Acts Referred:

Citation : (2011) 04 UK CK 0040

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Heard Mr. Pankaj Purohit, Advocate for the Petitioner and Mr. N.P. Sah, Standing Counsel for the State of Uttarakhand.

2. The Petitioner is a Gram Panchayat Adhikari in the Panchayat Raj Services in the State of Uttarakhand. The Petitioner has challenged the order dated 7.11.2005 before this Court whereby, according to the Petitioner, he has been directed to deposit an amount of Rs. 98,728/- in the account of Gram Panchayat, Gajaar within a stipulated period. The short case of the Petitioner is that even though the impugned order amounts to a minor punishment yet it has been done without giving an opportunity of hearing or show cause notice to the Petitioner and straightway the punishment has been imposed upon the Petitioner.

3. In the counter affidavit, State has alleged that there is no cause of action to file a writ petition as only a show cause notice was issued to the Petitioner and the writ petition is premature. There are other objections raised by the state counsel as well. On the perusal of the impugned order, it appears that though it is in the nature of show cause notice inasmuch as the Petitioner has been directed to put forward his case along with all evidence on or before 21.11.2005 but at the same time, it also directs him to deposit the entire amount immediately in the treasury. The Petitioner has also alleged that the order itself has been served upon him on 19.11.2005. Therefore, there appears an anomaly in the impugned order inasmuch as though apparently it is only a show cause notice but since even before giving an opportunity of hearing to the Petitioner

straightway he has been directed to deposit the penalty, is bad in the eyes of law. Consequently, the writ petition is disposed of with a direction that the Petitioner shall be present before the District Panchayat Raj Officer, Almora within a period of four weeks? from today. District Panchayat Raj Officer will not insist upon the Petitioner for the deposit of Rs. 98,728/- and instead give an opportunity of hearing to the Petitioner and if after hearing to the Petitioner he comes to the conclusion that the amount so directed was actually required, the same shall be insisted upon. On the other hand, if District Panchayat Raj Officer, Almora after hearing story of the Petitioner comes to the conclusion that he is liable to deposit the said amount than appropriate order to that effect be passed. It is needless to say that procedure to be drawn by the District Panchayat Raj Officer, Almora will be in accordance with law, in which the Petitioner shall cooperate.

4. The writ petition is disposed of as above. In light of the above observations and directions the impugned order dated 7.11.2005 stands modified.

5. Interim order dated 1.12.2005 is vacated.

6. Mr. N.P. Sah, Standing Counsel undertakes to send a copy of this order to the District Panchayat Raj Officer, Almora for onward compliance.