

(2010) 09 SHI CK 0051
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 3871 of 2009

Bhikham Ram

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 13-09-2010

Acts Referred:

Citation : (2010) 09 SHI CK 0051

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Deepak Gupta, J.—By means of this petition, the petitioner has laid challenge to the order dated 14.09.2009, passed by the Deputy Commissioner, District Mandi, whereby the grant of Nautor made in favour of the petitioner has been cancelled.

2. The admitted facts of the case are that land measuring 2-8-0 bighas situated in Muhal Khalwan, Sub-Tehsil Bali-Chowki, District Mandi, was granted in favour of the petitioner by the Tehsildar Chachyot, District Mandi, under the Himachal Pradesh Grant of Nautor Land to the Landless and other Eligible Persons Scheme, 1975. This grant was made in the year 1981. Thereafter, admittedly the petitioner was in possession of the said land. In the year 2008, 27 years after the Nautor was granted to the petitioner, the brother and nephew of the petitioner filed a revision petition before the Deputy Commissioner, alleging that the Nautor had wrongly been granted in favour of the petitioner, since he was owning more than five bighas of land at the relevant time and did not fall within the purview of the Landless Scheme. This revision petition has been allowed vide the impugned order.

3. At the outset, it may be stated that virtually, no reasons have been given for exercising the revisional powers after a period of 28 years. Assuming for the sake of arguments that the petitioner was not entitled to grant of Nautor land at the relevant time, this Court cannot lose the sight of the fact that for 29 years,

the petitioner has cultivated the land, changed the nature of the land and by his hard work and toil, enhanced the value of the land. At this stage, to deprive him of this land would be wholly illegal.

4. No doubt, Clause 9-A of the Himachal Pradesh Grant of Nautor Land to Landless and other Eligible Persons Scheme, 1975, provides that the Deputy Commissioner may, at any time, exercise his powers of revision. The law is, however, well settled that unless fraud has been practiced, the revisional powers must be exercised within a reasonable period. "Any time" cannot be given its literal meaning and extended to mean 28 years, as in the present case. Further in this case, it is the brother and nephew who filed the revision and there is no reason why they could not have approached the Deputy Commissioner earlier.

5. Therefore, I find that the Deputy Commissioner has gravely erred in exercising his jurisdiction at such a belated stage. The writ petition is, accordingly, allowed and the order of the Deputy Commissioner is set aside. No costs.