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(2017) 03 AHC CK 0219

In the Allahabad High Court

Case No : 12209 of 2017

Bhola Maurya — APPELLANT

Vs

State Of U.P. And Others — RESPONDENT

Date of Decision : 30-03-2017

Acts Referred:

Constitution of India, Article 14 - Appointment of Commission to inquire into and report on the administration of autonomous districts and autonomous regions
Uttar Pradesh Panchayat Raj Act, 1947, Section 27

Citation : (2017) 03 AHC CK 0219

Hon'ble Judges : Surya Prakash Kesarwani

Bench : Single Bench

Advocate : Satish Kumar Singh Kushwa

Judgement

1. Heard learned counsel for the petitioner and Sri R.K. Chauhan, the learned Chief Standing Counsel for the State respondents.

2. Pursuant to the order dated 24.03.2017, the respondent No.2 has filed his personal affidavit and is also present in court.

3. Learned Chief Standing Counsel refers to paragraphs 2 & 3 of the affidavit and submits that the respondent No.2 has committed mistake in passing the impugned order dated 12.01.2017 and therefore he has recalled that order suo motu on 28.03.2017.

4. Learned counsel for the petitioner submits that the respondent No.2 is bent upon to harass the petitioner and for that reason, he has not only arbitrarily and illegally passed a totally non-speaking and unreasoned order dated 12.01.2017 but also tried to interfere with the writ petition by recalling the impugned order by order dated 28.03.2017 and required the petitioner to submit explanation. He submits that no power is conferred upon the respondent No.2 to review or recall his orders.

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5. I have carefully considered the submissions of the learned counsel for the parties.

6. This writ petition has been filed challenging the order dated 12.1.2017, passed by the District Magistrate, Mau, under Section 27(2) of the U.P. Panchayat Raj Act, 1947 (hereinafter referred to as ''the Act'') directing for recovery of 65,000 bricks and lagan of pond of Rs.24,750/- as arrears of land Revenue from the petitioner who is Ex-pradhan of Village - Jameera Chaura, Block - Dohri Ghawt, District - Mau. The petitioner was pradhan for two terms i.e. from year 2005-2010 and 2010-2015.

7. The impugned order dated 12.1.2017, passed by the District Mau is reproduced below: "VERNACULAR MATTER OMITTED"

8. The aforesaid impugned order has been passed in violation of the statutory mandate of Section 27(2) of the Act and Rule 256 and Rule 257(2) of U.P. Panchayat Raj Rules, 1947, which mandates that the District Magistrate or the District Panchayat Raj Officer, as the case may be, after examining and after considering the explanation, if any, shall require the Pradhan, Up-Pradhan, Member, Officer or servant of the Gaon Panchayat to pay the whole or part of the sum to which such Pradhan, Up-Pradhan, Member, Officer or Servant is found liable.

9. Aforequoted impugned order not only suffers from gross violation of principles of natural justice but also appears to be wholly arbitrary, illegal and thus violative of Article 14 of the Constitution of India for reason that the reply of the petitioner dated 5.9.2016 was completely ignored by the District Magistrate, Mau and the impugned order was passed contrary to evidences on record, namely, the inquiry report of the Assistant Engineer, Nalkoop Khand, Mau, dated 18.6.2011, the inquiry report of the Gram Vikas Adhikari dated 3.6.2016 and the fact of deposit of "Lagan" of pond through receipts dated 21.12.2013, 24.12.2013, 27.7.2015 and 29.7.2015 in the Rajya Vitya Account No.31855902664 of the Village Panchayat in question which was supported by the report of the Gram Vikas Adhikari, dated 3.6.2015. That apart in the show cause notice dated 25.7.2016 the only allegation against the petitioner was with respect to old 65000 bricks, which after due verification by the Assistant Engineer, Nalkoop Khand, Mau, dated 18.6.2011 was found to have been used in brick work at four places as mentioned in the report.

10. In paragraph-2 of the personal affidavit, the respondent No.2 has stated that due to pressure of work and State Assembly Election, 2017 and maintenance of law and order in the District Mau, the impugned order was passed without reasons. The stand so taken illustrates courage of State Government officers to justify their gross illegal acts.

11. Learned Chief Standing Counsel could not point out any statutory power conferred upon the respondent No.2 under the Act or the Rules for review or recall of the order under Section 27 of the Act. Even alleged recall order is in the

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form of an order-cum-notice to the petitioner to submit explanation. It has not been disputed by the respondent No.2 in his personal affidavit that the explanation was submitted by the petitioner. It has also not been disputed by the respondent No.2 in his personal affidavit that inquiry report dated 18.06.2011 was submitted by the Assistant Engineer, Nalkoop Khand, Mau and another inquiry report dated 03.06.2016 was submitted by the Gram Vikas Adhikari which clearly indicated that the petitioner had not caused any loss, wastage or misappropriation of money or damage of property belonging to Gram Panchayat or Nyay Panchayat while he was village Pradhan. The Assistant Engineer, Nalkoop Khand, Mau has submitted the report dated 18.06.2011 after verification that 65000 bricks given in the custody of the petitioner as village Pradhan, were used for brick works of road 2.10 meters wide and 550 meters in length.

12. A statement has been made by the District Magistrate before this court, who is personally present in court; that there is no material to proceed against the petitioner any further. Therefore, the writ petition is disposed of in terms of statement made by the respondent No.2.

13. This Court is frequently coming across such type of unreasoned and non speaking orders being passed by statutory authorities leaving the litigants before them to be wholly uninformed of the reasons for the conclusions reached by them. Such conduct of statutory authorities shakes confidence of litigants in the rule of law. Such conduct of authorities, not only indicate dereliction in duty but also show disrespect to the legislative mandates representing the will of people. This prevailing situation deserves to be checked and discouraged and accountability of such officers deserves to be fixed with some monetary compensation to the sufferer for which the State Government may consider to enact an appropriate law or guidelines, if it feels it to be in public interest and an effective tool to curb corruption and dereliction in duty by government servants. Learned Chief Standing Counsel shall send a copy of this order to the State Government for consideration in this regard.

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