

(2011) 10 UK CK 0024

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 306 of 2011

Brij Mohan Agarwal and Others

APPELLANT

Vs

State of Uttarakhand and Mahendra Pal

RESPONDENT

Date of Decision : 12-10-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1), 4

Citation : (2011) 10 UK CK 0024

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble Prafulla C. Pant, J.—Heard.

2. By means of this petition moved under Article 226 of Constitution of India, the petitioners have sought quashing of the First Information dated 08.04.2011, registered as FIR No. NIL, relating to offences punishable u/s 3(1)(ix) and section 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Ramnagar, District Nainital.

3. Brief facts of the case are that the respondent no. 3 Mahendra Pal is a Stenographer with Uttarakhand Jal Sansthan. He earlier filed writ petition no. 468 (S/S) of 2005, before this Court against State of Uttarakhand, and Chief General Manager and Director (Finance) of the Jal Sansthan. In said writ petition the petitioner had sought mandamus commanding the respondents of that case to include name of the petitioner in the Accounts Cadre of Uttarakhand Jal Sansthan, and to promote to the post of Accountant. Said writ petition after hearing the parties, was disposed of by this Court vide its judgment and order dated 07.05.2008. The operative portion (para 9) of said judgment reads as under:-

"In the above circumstances, having considered the submissions of learned counsel for the parties and after going through the papers on record, this writ petition is disposed of with the direction that petitioner shall make a fresh representation within a period of 15 days from today for redressal of his grievances to respondent no.2 and if the similarly situated persons or the persons having less qualification/ less experience to the petitioner were taken in the Accounts cadre, petitioner's case shall be considered by the said authority in the light of the observations made in this judgment within a period of three months from the date of making such representation with the certified copy of this order ".

4. It appears that the authorities concerned rejected the representation of the present respondent no. 3 who was the writ petitioner in the earlier petition. Aggrieved by said order respondent no. 3 has lodged FIR on 08.04.2011, against eight officers of his department who are the present petitioners in this writ petition. They include Director of State Planning Commission; Director Treasury and Finance Services; Chief General Manager; Secretary Administration; Senior Accounts Officer; Assistant Accountant Officer; Law Officer and Assistant Accountant.

5. In the FIR respondent no. 3 has complained that the aforesaid officers of the organization in which he is working, and that of the State of Uttarakhand have insulted and intimidated respondent no. 3 who was member of the scheduled caste. It is not mentioned in the FIR whether the accused (present petitioners) belong to the scheduled castes/scheduled tribes category or not. The allegation in the FIR is that false information/reports were sent to get the representation of the respondent no. 3, rejected.

6. In the opinion of this Court, the grievance of the present respondent no. 3 could have been redressed by filing the contempt petition. It is told by the learned counsel for the parties that after rejection of the representation, respondent no. 3 has already filed another writ petition no. 1206 (S/S) of 2010. In the above circumstances, lodging of FIR by the respondent no. 3 against his senior officers is nothing but abuse of process of law particularly when it is not mentioned that as to what was the exact false information given by the accused and how such information could be said to be false one.

7. For the reasons as discussed above the impugned FIR is liable to be quashed. Accordingly the writ petition is allowed. Impugned FIR dated 08.04.2011, relating to offences punishable u/s 3(1)(ix) and section 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Ramnagar, District Nainital, is hereby quashed.