
(2011) 09 UK CK 0194

In the Uttarakhand High Court

Case No : Writ Petition No. 2122 of 2011 (M/S)

Dilsher Hussain and others.

APPELLANT

Vs

State of Uttarakhand and others.

RESPONDENT

Date of Decision : 30-09-2011

Acts Referred:

Citation : (2011) 09 UK CK 0194

Hon'ble Judges : V.K. Bist, J

Bench : Single Bench

Judgement

Hon"ble V.K. Bist J.

1. Learned Counsel for the parties requested that the writ petition may be disposed of at the admission stage itself, as no formal counter/rejoinder affidavits are required to be filed.

2. Heard the learned Counsel for the parties and perused the record.

3. Instant writ petition has been filed by the Petitioners seeking a writ in the nature of certiorari quashing the impugned order dated 19.09.2011 (annexure no.-3 to the writ petition). The Petitioners are further seeking a writ in the nature of mandamus commanding the Respondent Nos. 2 & 3 to auction the disputed Khokhas for next financial year through public auction so that the Petitioners may participate in such auction proceedings and till finalization of fresh auction process, the Petitioners shall not be evicted from the disputed Khokhas.

4. In the earlier round of litigation, titled as "Writ Petition No. 1074 of 2011 Dilsher Hussain and Ors. v. State of Uttarakhand and others", this Court vide order dated 06.06.2011 disposed of said writ petition in the light of order dated 25.05.2011 passed in Writ Petition (M/S) No. 991 of 2011. The Petitioners are similarly situated persons. Vide order dated 25.05.2011 passed in Writ Petition (M/S) No. 991 of 2011, while disposing of the writ petition, this Court directed that the Respondent-Nagar Palika shall first hear the Petitioners after giving them

an appropriate opportunity of hearing and thereafter give a finding as to how and under what circumstances, the Petitioners are liable to be evicted and the shops/ structures are liable to be demolished.

5. In the instant petition, learned Counsel for the Petitioners drew my attention towards the impugned order dated 19.09.2011 and argued that the same has not been passed in letter and spirit, of the order dated 25.05.2011 passed by this Court. On this, Mr. D.S. Patni, Learned Counsel for the Nagar Palika Parishad, Jaspur has fairly conceded that the order, impugned in the instant writ petition, is not a reasoned order as directed by this Court on 25.05.2011. He submitted that in order to resolve the grievance of the Petitioners, the Nagar Palika Parishad will grant them proper opportunity of hearing and will pass order afresh in the light of the observations made by this Court in its order dated 25.05.2011.

6. Accordingly, while refraining to enter into the entire controversy, this Court thinks it just and proper to accept the prayer of learned Counsel for the parties and to dispose of the writ petition, at this stage. Consequently, the impugned order dated 19.09.2011 (contained as annexure No. 3 to the writ petition) passed by Respondent No. 3 is hereby quashed. The Respondent Nos. 2 & 3/ Nagar Palika Parishad is directed to give opportunity of personal hearing to the Petitioners, for which 15 days time shall be allowed and thereafter pass order afresh, in accordance with law. The writ petition is disposed of accordingly.

7. Stay application (CLMA No. 10503 of 2011) also stands disposed of.