
(2010) 12 UK CK 0087
In the Uttarakhand High Court
Case No : Writ Petition No. 2118 of 2010

Irfan and Others	Vs	APPELLANT
State of Uttarakhand and Others		RESPONDENT

Date of Decision : 15-12-2010

Acts Referred:

Citation : (2010) 12 UK CK 0087

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.S. Verma, J.

(Stay Application No. 10472 of 2010)

1. Heard learned Counsel for the Petitioners and perused the record.
2. By means of this writ petition, the Petitioners have sought a writ in the nature of certiorari quashing the impugned order dated 20-3-2010 passed by Respondent No. 6 (Annexure 6 to the petition) and the impugned order dated 7-12-2010 passed by Respondent No. 2-District Magistrate Haridwar (Annexure No. 9 to the petition).
3. By the letter No. 1391/delimitation/2010-11, dated 20-3-2010, the Block Development Officer Roorkee (Haridwar) has informed Village Panchayat Development Officer, Bharapur Bhauri and Village Panchayat Development Officer, Badheri Rajputan that Abadi Ghorewala is situated in revenue village Badheri Rajputan, which was wrongly combined with village Panchayat Bharapur erroneously during the last delimitation. These officers were directed to correct the voter list of Village Panchayat Badheri Rajputan.
4. The Petitioners had filed objection, which was not decided by the Collector, therefore, the Petitioners filed a writ petition bearing W.P.M.S. No. 1705 of 2010, Irfan and two others v. State of Uttarakhand and others. This Court vide order

dated 29-9-2010, disposed of the writ petition finally with liberty to the Petitioners to make a representation before the District Magistrate Haridwar and directed the District Magistrate to dispose of the objection of the Petitioners after hearing them, if not already decided.

5. The District Magistrate Haridwar, in compliance of this Court's order, after hearing the Petitioners, rejected the objection filed by the Petitioners as well as the representation made by them by his order dated 7-12-2010, which is impugned in the present writ petition.

6. According to the Petitioners they are residents of vicinity of Ghorewala Village Bharapur, Tehsil Roorkee and they are aggrieved because of exclusion of their names from village Panchayat Bharapur and being combined with village Panchayat Badheri Rajputan, Tehsil Roorkee.

7. Learned Counsel for the Petitioner has vehemently contended that the orders impugned in this writ petition have been passed in violation of the Government Order dated 23-11-2009 (Annexure-10) and the G.O. dated 6-4-2010 (Annexure-1 collectively).

8. I have perused the order impugned passed by the District Magistrate Haridwar. In paragraph No. 6 of the order, it is mentioned that the Block Development Officer Roorkee and Tehsildar Roorkee have informed that in the report of the Consolidation Officer Roorkee dated 12-5-2010 it has been specifically stated that the Abadi Ghorewala is within the revenue village Badheri Rajputan and on the directions of the State Election Commissioner Uttarakhand contained in letter No. 504 dated 7-8-2009, the District Magistrate Haridwar was directed to revise the voter list. Consequently, the voter list has been revised. The District Magistrate has also observed that no evidence to the contrary has been filed by anybody.

9. The argument of the learned Counsel for the Petitioners that there is violation of the Government Orders, referred to above, is of no help to the Petitioner for the simple reason that the matter in controversy is all together different. The orders, impugned in this writ petition, neither pertain to delimitation of village Panchayats nor to the forthcoming census-2011, which are the subject-matter of the aforesaid Government Orders. The dispute arose when some persons of village Bhauri made a complaint that some families, who are residing in revenue village Badheri Rajputan (Abadi Ghorewala) have been included in the voter list of village Bharapur.

10. The District Magistrate after hearing the Petitioners and considering the objections raised by them has passed the impugned order. On the basis of the evidence and the documents, the District Magistrate, has held that the Abadi Ghorewala is a part of revenue village Badheri Rajputan and on that basis the voter list has been corrected.

11. From a perusal of the record, it is obvious that in compliance of the order

dated 29-9-2010 passed by this Court in Writ Petition (M/S) No. 1705 of 2010, the Petitioners filed their objection dated 9-10-2010 before the District Magistrate, Haridwar, which was considered by the District Magistrate vis-?-vis the relevant documents while passing the order impugned in this writ petition. This Court while exercising writ jurisdiction cannot sit like a court of appeal and disputed questions of fact cannot be examined in this writ petition.

12. In the above facts and circumstances, I find no illegality or infirmity in the orders, impugned in this writ petition. There is no perversity in the order passed by the District Magistrate. The writ petition being devoid of merit is liable to be dismissed outright at the admission stage.

13. Accordingly, the writ petition is dismissed summarily.

14. A certified copy of this order be issued to the learned Counsel for the Petitioners by tomorrow (16-12-2010) on payment of usual charges.