
(2011) 03 AHC CK 0062
In the Allahabad High Court
Case No : Service Bench No. 534 of 2011

Laxmi Narayan Khare

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 28-03-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 03 AHC CK 0062

Hon'ble Judges : Devi Prasad Singh, J;Devendra Kumar Arora, J

Bench : Division Bench

Judgement

1. Heard learned Counsel for the Petitioner, Sri Raghwendra Singh, learned Senior Counsel for Zila Panchayat, Basti and Sri Anuj Kudesia, learned standing counsel.

2. The order of transfer dated 24.2.2011 was stayed by a Division Bench of this Court, vide order dated 8.3.2011 passed in Writ Petition No. 398 (S/B) of 2011. After service of impugned order of transfer, the State Government has passed order dated 14.3.2011 (Annexure No. 11 to the writ petition) in terms of the order passed by this Court. Thereafter by the order dated 14.3.2011 (Annexure No. 12 to the writ petition), Petitioner's vehicle was attached with the President of Zila Panchayat, by Upper Mukhya Adhikari, Zila Panchayat, Basti. Thereafter, the Chairman, Zila Panchayat, Basti (Annexure No. 13 to the writ petition) passed the order dated 18.3.2011, to the effect that the cheques in the Bank, shall be signed by the Petitioner's predecessor and her in spite of the fact reason assigned in the impugned order that because of Holi festival, inconvenience has been caused.

3. Once the Division Bench of this Court has stayed order of transfer that too, after giving liberty to pass a fresh order in May, 2011, then any subsequent action taken by the Respondents, amounts to circumvent the interim order passed by this Court. Liberty is given to the Petitioner to move appropriate application to challenge the order contained in Annexure No. 12 and 13 to the

writ petition.

4. It has been submitted by Sri Raghwendra Singh, learned Senior Counsel that the writ petition is not maintainable to enforce the interim order passed by this Court. He relied upon the judgment of Division Bench dated 30.7.2010, passed in Writ Petition No. 5931 (M/B) of 2010. The argument seems to be misconceived. In the present case, the question cropped up is with regard to subsequent order passed by the authorities which calls for interference by this Court. In case, any interim order is passed by this Court, it is the solemn duty of authorities to enforce it in its letter and spirit. In the event of non-compliance, the option is always open to file contempt petition but in case some decision is taken even after passing the interim order then, against such subsequent decision taken by the Respondents, writ petition shall always be maintainable. The dispute calls for interference by this Court under Article 226 of the Constitution of India. The preliminary objection of the Respondents counsel is accordingly rejected.

5. It has further been submitted by the learned Counsel that Lucknow Bench has got no jurisdiction to entertain this writ petition. This argument also seems to be not correct. Keeping in view the fact that earlier writ petition filed by the Petitioner is pending in this Court and subsequent order has been passed by the Respondents in contravention of the interim order passed by the Division Bench of this Court, it is for the State Government to comply with the judgment and orders of this Court. Since burden to comply with the interim order, rests on the shoulder of State Government as well as the district authorities, and the subsequent order co-relate to the interim order passed by the Division Bench at Lucknow Bench, the Lucknow Bench, has got jurisdiction and decide the same on merit. The second objection raised by the learned Counsel, is also rejected.

6. Put up day after tomorrow on 30.3.2011 along with record of Writ Petition No. 398 (S/B) of 2011. We expect and hope that Zila Panchayat, Basti and other district authorities as well as State shall take a decision keeping in view the letter and spirit of the interim order passed by the Division Bench of this Court (supra). We are prima facie of the view that Respondents had tried to circumvent the interim order passed by this Court while passing subsequent orders.