
(2005) 08 UK CK 0043

In the Uttarakhand High Court

Case No : Writ Petition No. 904 of 2005 (M/B)

Mahavir Singh Rawat

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 16-08-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 1 UC 681

Hon'ble Judges : Cyriac Joseph, C.J;B.C.Kandpal, J

Bench : Division Bench

Advocate : Alok Singh, a/b., Sudhir Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Cyriac Joseph, C.J.—The question that arises for consideration in this writ petition is whether the Directorate of Agriculture of the Government of Uttaranchal should be located at Dehradun or Pauri. As per Annexure 2 notification dated 04.10.2001, Government of Uttaranchal ordered that the proposed Directorate of Agriculture shall be at Pauri. In modification of Annexure 2 notification, Government of Uttaranchal issued Annexure 4 notification dated 02.08.2003 in which it was stated that in respect of the Directorate of Agriculture, separate orders will be issued. Thereafter on 19.07.2005, Government decided to close down the camp office of the Directorate of Agriculture at Dehradun and directed the Director of Agriculture to function from the Directorate at Pauri w.e.f. 20.07.2005. The decision contained in the order dated 19.07.2005 was cancelled as per Annexure 10 order dated 04.08.2005, according to which, the Directorate of Agriculture will continue at Dehradun until further orders. The said Government Order dated 04.08.2005 is challenged in this writ petition. The Petitioner who claims to be a resident of Upper Bazar, Pauri wants the Directorate of Agriculture to be located at Pauri and hence, he prays for quashing Annexure 10 order dated 04.08.2005.

2. Even though the Petitioner has raised several contentions regarding the merits

of having the Directorate of Agriculture at Pauri and the demerits of having the Directorate of Agriculture at Dehradun and has also raised contentions regarding the arbitrary manner in which decisions are taken and then altered, we refuse to be drawn into this controversy. In our view, the decision as to where the Directorate of Agriculture of the Government of Uttaranchal should be located is exclusively the prerogative of the Executive and the High Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot interfere with such decision of the Government or dictate to the Government the location of the Directorate of Agriculture. The discretionary jurisdiction under Article 226 of the Constitution of India cannot be exercised to encroach upon the domain of the Executive. The Constitution has clearly demarcated the limits of jurisdiction of each of the three arms of the State, namely, the Legislature, the Executive and the Judiciary. In the constitutional scheme, it is imperative that each arm of the State confines itself to the area demarcated and functions assigned to it by the Constitution and does not encroach upon the areas demarcated for the other two arms of the State. If the Laxman Rekha drawn by the Constitution is not respected and followed by each arm of the State, it will lead to unnecessary controversy and unhealthy friction among the three arms of the State. Such a situation has to be avoided at any cost in larger public interest.

3. If any individual or group of individuals has got any grievance against the decision taken by the Government in exercise of its executive functions, the remedy is not to invoke the jurisdiction of the High Court under Article 226 of the Constitution of India. They should resort to the remedies available to them in a democratic society. The Government in a democracy is bound to respect the will of the people and there are ways and means of expressing and conveying the will of the people to the Government. Instead of effectively conveying such will of the people to the Government through the elected representatives or otherwise, the Petitioner has taken a shortcut to file this writ petition in the High Court. We cannot encourage or endorse such shortcuts.

4. Hence, we decline to exercise our jurisdiction under Article 226 of the Constitution of India in this case. Therefore, the writ petition is dismissed.