
(1986) 08 AHC CK 0002
In the Allahabad High Court
Case No : Writ Petition No. 5422 of 1986

Mukhtar Singh Verma

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 05-08-1986

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Consolidation of Holdings Act, 1953 — Section 49A

Citation : (1986) 08 AHC CK 0002

Hon'ble Judges : S.S. Ahmad, J; D.S. Bajpai, J

Bench : Division Bench

Advocate : P.N. Bajpai, for the Appellant;

Judgement

D.S. Bajpai, J. 1. The Petitioner, Mukhtar Singh Verma, a Consolidation Officer, has filed this writ petition under Article 226 of the Constitution challenging the order dated 23rd July, 1986 passed by the Consolidation Commissioner, U.P., Lucknow suspending him on the charge that he ordered transfer of mutation entry of ownership of 33 trees standing on Oata No. 724, Area 38 acres entered in the name of Gaon Sabha by an order dated 21st January, 1985 passed in Case No. 4780 that they would be entered in Gata No. 723 which was in the name of Ram Ratan Lal and others. It has further been indicated in the impugned order that the Consolidation Officer in this way by striking off these entries from Gata No. 724 and ordering their transfer to Gata No. 723 has inflicted a loss of about Rs. 30.000/- to the Gaon Sabha being the value of the trees and thus the Petitioner was instrumental in obtaining undue gain for Ram Ratan Lal and Ors. He has also been charged with other consequential illegalities like creating two chalks in one sector. For acting in bad faith he has been suspended pending enquiry.

2. In fact it has been admitted by the Petitioner, as indicated in paragraph 5 of the supplementary affidavit, that "It is also mentored that the trees were claimed by the Pradhan at the spot.

3. Learned Counsel for the Petitioner has urged that against the order, annexure-2 to the supplementary affidavit, by which the Petitioner directed mutation of the trees in the name of Ram Ratan Lal and others, has become final inasmuch as no appeal has been preferred against the same. He has further contended that in view of the provisions of Section 49A of the U.P. Consolidation of Holdings Act, which runs as under:

49A. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or rule made there under. the impugned order of suspension is bad in law and could not be passed.

4. A reading of Section 49A of the Act would leave no doubt that " no suit, prosecution or other legal proceedings shall lie against any person for any thing which is in good faith done or intended to be done, under this Act or rules made there under. " In the instant case the proceedings sought to be conducted against the Petitioner are disciplinary proceedings and there is an indication in the impugned order that the order transferring the entry of the trees in the name of Ram Ratan Lal and Ors. was not done in good faith but as a matter of fact was motivated with a view to confer undue gain in favour of Ram Ratan Lal and Ors.

5. In this view of the matter we are not convinced with the argument of the learned Counsel that the Petitioner would in any way be protected by the provisions of Section 49A of the Act since if we take that view it would frustrate the purpose of the said provision itself. Section 49A of the Act does not grant immunity to a Consolidation Officer against disciplinary proceedings.

6. The learned Counsel next submitted that since the Petitioner has been transferred from the place to which the incident relates the order of suspension was not justified. We have no hesitation in holding that this cannot be a ground to challenge an order of suspension more so in view of the fact that suspension pending enquiry and transfer are altogether two different issues and the fact that the Petitioner has since been transferred would not entitle him to challenge the disciplinary proceedings initiated by passing the transfer order.

7. For reasons indicated above we do not consider it a fit case for exercise of our discretionary powers under Article 226 of the Constitution of India and the writ petition is accordingly dismissed in limine.

8. We, however, hope that- the enquiry proceedings will be completed by the concerned authority within a period of six months from the date of furnishing a copy of this order provided the Petitioner fully cooperates in the said proceedings.