
(2011) 04 AHC CK 0416
In the Allahabad High Court
Case No : Writ-B No. 24177 of 2004

Naubat Singh

APPELLANT

Vs

Board of Revenue and Others

RESPONDENT

Date of Decision : 07-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 198(4)

Citation : (2011) 113 RD 95

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—Heard Mr. S.C. Madhyan, learned Counsel for the Petitioner and learned Standing Counsel.

2. The Petitioner filed a complaint against the Respondents u/s 198(4) of Uttar Pradesh Zamindari Abolition and Land Reforms Act for cancellation of pattas as the same were "farji" and further no procedure was followed as prescribed in the Rules. The District Magistrate, Bu-landshahr by means of the order dated 31.3.1994 allowed the application and cancelled the pattas granted in favour of the private Respondents. Aggrieved by the order dated 31.3.1994 they filed a revision No. 40/94-95 before the Respondent No. 2 who by means of the order dated 30.7.1996 made reference to the Respondent No. 1 which was allowed and the order dated 31.3.1994 was set aside. The matter was remanded to the Collector for decision afresh vide order dated 20.8.2003.

3. Being aggrieved, the Petitioner, who is a complainant, has filed the instant writ petition for quashing the orders dated 30.7.1996 and 20.8.2003.

Learned Standing Counsel submits that the Petitioner has no locus standi and further, he is not an aggrieved person.

4. As evident from narration of the facts given above, it reveals that the

Petitioner has made a complaint and on his complaint, the District Magistrate has taken action. In the circumstances, the Petitioner cannot have any grievance in the matter and he is not an aggrieved person, rather he is a person annoyed.

5. According to my opinion, a "person aggrieved" means a person who is wrongly deprived of his entitlement which he is legally entitled to receive and it does not include any kind of disappointment or personal inconvenience. "Person aggrieved" means a person who is injured or he is adversely affected in a legal sense.

6. It is settled law that a person who suffers from legal injury only can challenge the act/action/order etc. by filing a writ petition. Writ petition under Article 226 of the Constitution is maintainable for enforcing a statutory or legal right or when there is a complaint by the Petitioner that there is a breach of the statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right for the enforcement of which the writ jurisdiction can be resorted to. The Court can enforce the performance of a statutory duty by public bodies through its writ jurisdiction at the behest of a person, provided such person satisfied the Court that he has a legal right to insist on such performance. The existence of the said right is the condition precedent to invoke the writ jurisdiction. *Utkal University Vs. Dr. Nrusingha Charan Sarangi and Others*, and *Laxminarayan R. Bhattad and Others Vs. State of Maharashtra and Another*,

7. Legal right is an averment of entitlement arising out of law. It is, in fact, an advantage or benefit conferred upon a person by a rule of law *Shanti Kumar R. Canji Vs. The Home Insurance Co. of New York, and State of Rajasthan and Others Vs. Union of India and Others*,

8. In *Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others*, the Apex Court has held that only a person who is aggrieved by an order, can maintain a writ petition. The expression "aggrieved person" has been explained by the Apex Court observing that such a person must show that he has a more particular or peculiar interest of his own beyond that of the general public in seeing that the law is properly administered. In the said case, a cinema hall owner had challenged the sanction of setting up of a rival cinema hall in the town contending that it would adversely affect monopolistic commercial interest, causing pecuniary harm and loss of business from competition. The Hon'ble Apex Court observed that "Such harm or loss is not wrongful in the eye of law because it does not result in injury to a legal right or a legally protected interest, the business competition causing it being a lawful activity. Judicially, harm of this description is called *damnum sine injuria*. The term *injuria* being here used in its true sense reason why law suffers a person knowingly to inflict harm of this description on another, without holding him accountable for it, is that such harm done to an individual is a gain to society at large. In the light of the above discussion, it is demonstratively clear that the Appellant has not been denied or deprived of a legal right. He has not sustained injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him,

much less does it wrongfully effect his title to something. He has not been subjected to legal wrong. He has suffered no grievance. He has no legal peg for a justiciable claim to hand on. Therefore, he is not a "person aggrieved" to challenge the ground of the no objection certificate."

9. In Northern Plastics Ltd. Vs. Hindustan Photo Films Mfg. Co. Ltd. and Others, the Hon"ble Supreme Court again considered the meaning of "person aggrieved" and "locus of a rival Government undertaking" and held that a rival businessman cannot maintain a writ petition on the ground that its business prospects would be adversely affected.

10. In view of above, the Petitioner has no locus standi to file the present writ petition under Article 226 of the Constitution of India. Even otherwise, having regard to the facts and circumstances of the case, I am not inclined to exercise the discretionary jurisdiction under Article 226 of the Constitution of India.

11. Accordingly, the writ petition is dismissed.