
(2013) 01 AHC CK 0459
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 11862 of 1998

Pawan and Another

APPELLANT

Vs

Additional Commissioner and Others

RESPONDENT

Date of Decision : 18-01-2013

Acts Referred:

Citation : (2013) 10 ADJ 94 : (2013) 121 RD 614

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Advocate : Deo Raj and Amit, for the Appellant; Anil Sharma, Hamendra Kumar and Rajeshwar Singh, for the Respondent

Final Decision : Dismissed

Judgement

Sibghat Ullah Khan, J.—Heard learned counsel for the petitioners, learned Standing Counsel for the respondent No. 1 and Sri Anil Sharma, learned counsel for respondent Nos. 2 and 3. The land in dispute was declared surplus in ceiling proceedings and was allotted to three persons including both the petitioners. Respondent Nos. 2 and 3, filed complaint that the allotment was wrong for the reason that petitioners were not deserving persons as they belonged to higher caste namely Rajput, Additional Commissioner, Administration Moradabad, Division Moradabad through order dated 27.2.1998 passed in Misc. case No. 7 of 1996-97 u/s 27(4) of U.P. Imposition of Ceiling on Land Holding Act [Bihari and others v. Pawan and others) held that the allotment made in favour of the petitioners was wrong and cancelled the same. The said order has been challenged through this writ petition. In the said order, it is mentioned that 33 persons belonging to scheduled caste were available for allotment, still land was allotted to the petitioners belonging to higher caste.

2. Learned counsel for the petitioners has argued that respondent Nos. 2 and 3 are also members of the higher cast hence they are not aggrieved persons.

3. Sri Anil Sharma, learned counsel for the respondent Nos. 2 and 3 states that

he is not aware about the caste of his clients. Be that as it may, u/s 27(4) the commissioner has full power to initiate proceedings suo-moto. Proceedings initiated on the application filed by a person, who is not aggrieved person, may be treated to be suo-moto, proceedings.

4. There is therefore, no merit in the writ petition, hence, it is dismissed. Interim order stands vacated. However, the petitioner is permitted to remain in possession until 30.6.2013. It is further directed that the land shall be allotted to some scheduled caste persons of the village. If the respondent Nos. 2 and 3 are not scheduled caste they shall not be considered for the allotment and if they are scheduled caste they shall only be considered alongwith other members of scheduled caste. Merely because they filed application for cancellation, they shall not be given any extra weightage.