

(2024) 08 UK CK 0009

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1342 Of 2017

Pratap Singh

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 05-08-2024

Acts Referred:

Citation : (2024) 08 UK CK 0009

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Prashant Khanna, Suyash Pant

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. Petitioner is resident of Village Parkhal, Patwari Circle Narayan Bagar, Tehsil Tharali, District Chamoli. By means of this writ petition, petitioner has sought the following substantive reliefs:-

"I. Issue a writ order or direction in the nature of Certiorari quashing the impugned order dated 22.3.2017 (Annexure-12) issued by District Magistrate.

II. Issue a writ order or direction in the nature of Mandamus directing the respondents to grant suitable compensation to the petitioner as per the relevant government orders, in lieu of loss/damaged caused to the petitioner in natural calamity occurred in June 2013."

2. According to the petitioner, his residential house, cowshed and also agricultural land was severely damaged due to landslide, which struck his village on 27.06.2013. Petitioner applied for compensation as per the applicable Policy. To substantiate his claim for compensation, petitioner relied upon a report submitted by Revenue Inspector, which is enclosed as Annexure 4 to the writ petition, in which it is mentioned that petitioner's immovable property suffered loss to the tune of Rs.4.00 lakh. The District Magistrate, Chamoli has rejected

petitioner's claim for compensation vide order dated 22.03.2017, which is under challenge in this writ petition.

3. The impugned order is on record as Annexure 12 to the writ petition. The District Magistrate has disbelieved petitioner's stand that his property was severely damaged and has relied upon the report of Sub-Divisional Magistrate, Tharali for returning a finding that there is no sign of damage in the cowshed and there are some minor cracks in the double storied residential house belonging to the petitioner. In the impugned order, District Magistrate has observed that the report of Revenue Inspector, relied by the petitioner, is false and has been submitted in violation of the Conduct Rules, applicable to Government servant for which disciplinary proceedings is to be initiated against the concerned Revenue Inspector.

4. The Revenue Sub-Inspector, on whose report petitioner had placed heavy reliance, has filed a counter affidavit as respondent no. 5. In para 18 of the counter affidavit, he has denied the claim of the petitioner that he had given any report supporting the claim of the petitioner. Para 18 of the said counter affidavit is extracted below:-

"18. That the contents of para No. 22, 23 of the Writ Petition are not admitted, hence denied. However, it is stated that the document annexed by the petitioner at page No. 35 of his Writ Petition, which has not been prepared by the answering respondent when he has posted as Revenue Sub-Inspector and also the document annexed at page No. 35 is not in the writing of the answering respondent and also does not carry the signature of the answering respondent. Moreover, not a single photograph has been verified by the answering respondent. It is submitted that against the petitioner for preparing a false and fabricated documents on application have been forwarded by the answering respondent to the Sub-Divisional Magistrate, Tharali, District Chamoli on dated 31.08.2017 & 16.09.2017 and District Magistrate Chamoli on dated 04.10.2017, the copies which are being enclosed herewith as Annexure No. CA-2."

5. Learned State Counsel submits that as per the report submitted by Sub-Divisional Magistrate, Tharali, no damage was caused to the residential house or cowshed of the petitioner. He further submit that as per the averments made in the writ petition, PUCCA residential house of petitioner, consisting of ten rooms, was damaged due to landslide, however, photographs enclosed with the writ petition are in respect of cowshed and washroom, which are temporary structures. Thus, the pleadings made in the writ petition are in variance with the documents / photographs enclosed with the writ petition. He further submits that in view of categorical statement made by respondent no. 5 in his counter affidavit, the very basis of petitioner's claim goes away. Learned State Counsel further submits that even then for the minor damage caused to the property of the petitioner, he was given financial aid to the tune of Rs. 40,000/- from Soldier Welfare Department and another Rs. 15,000/- from Village Development

Department. Thus, he submits that whatever little damage was caused to the property of petitioner has been adequately compensated by paying Rs.55,000/- from two different Government Agencies.

6. This Court finds substance in the submission made by learned State Counsel. The photographs enclosed with the writ petition do not support the stand taken by petitioner that his pucca residential house was damaged; the enclosed photographs are of temporary structures and the Revenue Sub Inspector has categorically stated that the report relied by petitioner for claiming compensation, was neither prepared nor signed by him. Thus, the very basis of petitioner's claim vanishes in view of the statement made by Revenue Sub Inspector. The order passed by District Magistrate contains detailed reasons for rejecting petitioner's claim for compensation.

7. This Court while exercising power of Judicial Review is not inclined to interfere with the findings of fact recorded by District Magistrate. Thus, there is no scope for interference in the matter.

8. The writ petition fails and is dismissed.