

(2010) 10 UK CK 0057

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1842 of 2010

Puran Singh Rauthan

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 27-10-2010

Acts Referred:

Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 — Section 43

Citation : (2010) 10 UK CK 0057

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.S. Verma, J.

(Interim Relief Application No. 9193 of 2010)

1. Heard learned Counsel for the parties and perused the record.
2. By means of this writ petition, the Petitioner has sought a writ in the nature of certiorari quashing the orders dated 16-9-2002 (Annexure No. 2) and 22-3-2010 (Annexure No. 7) passed by Respondent Nos. 3 and 2 respectively. The Petitioner has also sought a writ in the nature of mandamus directing the Respondent Nos. 2 and 3 to allot the same land or any other nearby land which is adjacent to the road from where the approach to road, buses, etc. is easier.
3. According to the Petitioner, he is 100% blind and he falls under the category of disabled person.
4. The contention of the learned Counsel for the Petitioner is that as per Section 43 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short the Act), the State Government is bound to undertake schemes for allotment of land to disabled persons and that the Petitioner is entitled for preferential allotment of land at concessional rates for

house.

5. A perusal of record shows that vide order dated 16-9-2002 passed by the Assistant Collector Tehri granted licence to the Petitioner of 150 Sq. Yards land in plot No. 810 of village Dobhalgaon with some conditions mentioned therein. Condition No. 2 stipulated that if the land in question bars any public utility, in that event, the permission would be cancelled. By a subsequent order dated 3-10-2002, the Assistant Collector cancelled the permission granted to the Petitioner on the ground that as per report of Tehsildar Tehri, there is apprehension of breach of peace in case the Petitioner is granted licence of the land in question. It was also observed in the order that the Petitioner owns a residential house in the village and in addition, he has 20 Nali of land. The Petitioner is not a landless person.

6. Aggrieved by the said order, the Petitioner filed a writ petition bearing W.P.M.S. No. 2241 of 2009, Puran Singh v. State of Uttarakhand and Ors. before this Court. The writ petition was dismissed as withdrawn with liberty to the Petitioner to avail appropriate remedy before appropriate Forum for redressal of his grievance vide order dated 9-2-1010.

7. Thereafter, the Petitioner moved a representation before the Collector, Tehri Garhwal, who, in turn, rejected the representation of the Petitioner by a speaking and reasoned order dated 22-3-2010 on the ground that there is no Government Order to allot the land in favour of the disabled persons. It was also observed that the permission which was granted by the Assistant Collector on 16-9-2002 is illegal. It was also observed that the permission of the Petitioner was opposed by the villagers of village Dobhal Gaon and an inquiry was got conducted by Tehsildar concerned. Tehsildar Tehri in his inquiry report dated 22-9-2002 reported that the land in question causes hindrance to the public utility and as such there is an apprehension of breach of peace in the village.

8. Admittedly the Petitioner owns a house and in addition, land more than 20 Nali in the village and this fact was admitted by the Petitioner before the Collector at the time of hearing on representation. Besides, the Petitioner is working as an Assistant Teacher in Government Shiv Singh Inter College Kandi Saur Chham.

9. Section 43 of the Act reads as under:

43. The appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concessional rates for-

- (a) house;
- (b) setting up business;
- (c) setting up of special recreation centres,
- (d) establishment of special schools;

(e) establishment of research centres;

(f) establishment of factories by entrepreneurs with disabilities.

10. Admittedly, no scheme has been framed by the appropriate Government for allotment of land at concessional rates, as has been mentioned by the Collector in the impugned order.

11. In the above facts and circumstances, coupled with the fact that the Petitioner admittedly owns a residential house in addition to 20 Nali of land in the village and that he is an Assistant Teacher in the Government Inter College, I am of the view that the permission granted in favour of the Petitioner was rightly cancelled by the Assistant Collector and his representation was rightly rejected by the Collector by the orders impugned in the writ petition. The writ petition being devoid of merit deserves to be dismissed at the threshold.

12. The writ petition is dismissed summarily.