
(2006) 07 AHC CK 0038
In the Allahabad High Court
Case No : C.M.W.P. No. 54374 of 2004

Rajendra Singh

APPELLANT

Vs

Upper Collector (Admn.) and Others

RESPONDENT

Date of Decision : 26-07-2006

Acts Referred:

Citation : AIR 2006 All 330 : (2006) 4 AWC 3816 : (2006) 2 RD 378

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : Divakar Rai Sharma and Dharmendra Singhal, for the Appellant; V.K. Singh, Mahtab Alam, N.S. Chahar and S.C., for the Respondent

Final Decision : Allowed

Judgement

Vineet Saran, J.—Brief facts relating to this case are that on a report submitted by the Lekhpal, a notice was given by the Tehsildar to the Petitioner and after considering the reply as well as on perusal of record, by order dated 15.1.2004 the proceedings against the Petitioner were dropped. Thereafter on some application filed by Respondent No. 5, the order dated 15.1.2004 was recalled on 15.5.2004 without notice to the Petitioner. Challenging the said order the Petitioner filed a revision which has been dismissed on 30.11.2004. Aggrieved by the aforesaid orders, the Petitioner has filed this writ petition.

2. I have heard learned Counsel for the Petitioner as well as learned standing counsel appearing for Respondent Nos. 1 and 2, Sri V. K. Singh for Respondent No. 3, Sri Mahtab Alam for Respondent No. 4 and Sri N.S. Chahar for Respondent No. 5. Counter and rejoinder-affidavits have been exchanged and with the consent of the learned Counsel for the parties, this writ petition is being disposed of at the admission stage itself.

3. The short question involved in this writ petition is that whether the order passed in favour of a party could have been recalled without notice to the said party.

4. Admittedly, the order dated 15.1.2004 was passed in favour of the Petitioner. It is also not disputed that the order dated 15.5.2004 had been passed without notice to the Petitioner. It is well settled law that in case if some rights have accrued in favour of a party by passing of some order, the same cannot be withdrawn, recalled or modified without following the principles of natural justice and without giving notice to such party before passing any such order.

5. In the present case since admittedly the order dated 15.5.2004 had been recalled behind the back of the Petitioner without affording him any opportunity, the same deserves to be set aside.

6. Accordingly, this writ petition stands allowed and the order dated 15.5.2004 passed by the Tehsildar, Tehsil Iglas, district Aligarh, Respondent No. 2 as well as the order dated 30.11.2004 passed by the Additional Collector (Administration), Aligarh, Respondent No. 1 are both quashed.

7. The Tehsildar, Respondent No. 2 shall be free to pass appropriate orders, in accordance with law, after giving opportunity of hearing to the Petitioner and other concerned parties and considering the evidence which may be adduced by the parties.

8. No costs.